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SUBJECT-INDEX**ADMINISTRATION OF CRIMINAL JUSTICE:**

If two views are possible, one pointing to the guilt and other to the innocence, view favourable to accused to be adopted.

(Also see under: Penal Code, 1860)

Habib v. State of Uttar Pradesh 476

APPEAL:

Appeal against acquittal - Held: In such appeal, appellate court is required to re-appreciate the evidence.

(Also see under: Penal Code, 1860)

Habib v. State of Uttar Pradesh 476

ARBITRATION AND CONCILIATION ACT, 1996:

s.11(6) - Petition under - For appointment of nominee Arbitrator on behalf of respondent and also appointment of third Arbitrator (Presiding Arbitrator) in Arbitral Tribunal - Maintainability - Whether petition liable to be dismissed on ground of limitation as it raises dead claims or the matter ought to be left to be decided by Arbitral Tribunal - Held: The Chief Justice or the designated Judge can also decide whether the claim was dead one or a long-barred claim - But it is not imperative for the Chief Justice or his designate to decide the questions at the threshold - It can be left to be decided by Arbitral Tribunal - In the instant case, there is a dispute as to whether repeated notices sent by petitioner to respondents were ever received - There are further disputes (even if the notices were received by respondent-ONGC) as to whether they were actually received in the correct section of respondent-ONGC - These are matters of evidence which are normally best left to be decided by Arbitral Tribunal - It would be

appropriate for Supreme Court to constitute the entire Arbitral Tribunal in exercise of powers u/s.11(6).

Schlumberger Asia Services Ltd. v. Oil & Natural Gas Corporation Ltd. 557

**CIRCULARS/GOVERNMENT ORDERS/
NOTIFICATIONS:**

MCI-81(1)/2010-MED/49070 dated 21st December, 2010, issued by the Medical Council of India (MCI), notifying a National Eligibility Entrance Test (NEET).

(See under: Education/Educational Institutions) 573

CODE OF CRIMINAL PROCEDURE, 1973:

(1) ss.156(3) and 190 - Complaint against appellants and others alleging that certain land was purchased for Government from a dead person - Direction of Magistrate to Police to investigate the matter u/s.156(3) and submit a detailed report - Challenged - Held: Magistrate before taking cognizance of the offence can order investigation u/s.156(3) - When a Magistrate receives a complaint he is not bound to take cognizance - Where a Magistrate orders investigation by police before taking cognizance u/s.156(3) and receives the report thereupon he can act on the report and discharge the accused or straightaway issue process against accused or apply his mind to the complaint filed before him and take action u/s.190 - In the instant case, while issuing direction for investigation u/s.156(3), Magistrate did not exceed his power nor violated any of the provisions contained in CrPC.

Madhao and Anr. v. State of Maharashtra and Anr. 476

(v)

(2) (i) s.311 - Application by accused-appellant for permission to examine three more witnesses - Dismissed by trial court on ground that examination of witnesses sought to be examined was unnecessary - High Court affirmed the order - Held: Not proper - Application filed u/s.311 must be allowed if fresh evidence is being produced to facilitate a just decision - Trial court prejudged the evidence of witnesses sought to be examined by appellant, and thereby caused grave and material prejudice to her as regards her defence, which tantamounts to a flagrant violation of the principles of law governing the production of such evidence in keeping with the provisions of s.311 - Application u/s.311 filed by appellant accordingly allowed - Prevention of Corruption Act, 1988 - s.13(2) r/w s.13(1)(d) - Penal Code, 1860 - s.120B r/w ss.420, 467, 468, 471.

(ii) s.311 - Powers under - Scope and object - Held: Power u/s.311 must be invoked by court only in order to meet the ends of justice, for strong and valid reasons, and the same must be exercised with great caution and circumspection - Determinative factor should be, whether summoning/recalling of the said witness is in fact, essential to the just decision of the case - Adducing evidence in support of the defence is a valuable right - Denial of such right would amount to denial of a fair trial - Under no circumstances can a person's right to fair trial be jeopardized - Criminal trial - Fair trial.

Natasha Singh v. CBI (State) 539

(3) s.389.

(See under: Criminal Trial) 520

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CONSTITUTION OF INDIA, 1950:

(1) Art. 21.

(See under: Human Rights) 371

(2) Arts. 72 and 161.

(See under: Sentence/Sentencing) 507

(3) Art. 136 - SLPs filed by petitioner-State challenging the same order which was the subject matter of challenge in previous SLPs - Held: A fresh batch of SLPs challenging the judgment and order against which SLPs were earlier dismissed, cannot be entertained by a coordinate Bench unless it is inclined to take a different view and to refer the matter to a larger Bench - On facts, although the question of law was allowed to be kept open in the earlier matter, no discriminatory treatment should be meted out to another set of teachers who were affected by one and the same order of State Government - The implication of the observation in regard to the fact that the question of law was allowed to be kept open was meant to be urged in a matter arising out of a subsequent event in which a similar question arose - Insofar as instant SLPs are concerned, that is not the situation as the SLPs have been filed by petitioner-State against the same impugned order, which was the subject matter of challenge in the earlier appeals - Instant SLPs dismissed solely on the ground of parity - Practice and Procedure.

State of Rajasthan & Anr. v. Milap Chand Jain & Anr. etc. 472

CRIMES AGAINST WOMEN:

(See under: Penal Code, 1860) 295,
489 and 497

CRIMINAL TRIAL:

(1) Fair trial.

(See under: Code of Criminal Procedure, 1973) 539

(2) Free and fair trial - Balancing of interests - Junior Basic Trained (JBT) Teachers Recruitment Scam - Conviction of petitioners - Pending appeal, proposal of respondent to broadcast/telecast an episode on television on "JBT Teachers Scam"- Suit for permanent injunction by petitioners to restrain respondent from such broadcast/telecast - Injunction order passed by Single Judge of High Court - Set aside by Division Bench - Held: Once the trial was completed and petitioners convicted and, thereafter, arrested, there was no further possibility of any bias against them at time of hearing of appeal - However, in order to safeguard interests of petitioners, certain restrictions imposed at the time of screening of the episode - Prevention of Corruption Act, 1988 - s.13(2) - Penal Code, 1860 - s.120B - Code of Criminal Procedure, 1973 - s.389.

Vidya Dhar & Ors. v. Multi Screen Media Pvt. Ltd. 520

EDUCATION/EDUCATIONAL INSTITUTIONS:

Admission - Medical Courses - Notification published on 27th December, 2010, being No. MCI-81(1)/2010-MED/49070 dated 21st December, 2010, issued by the Medical Council of India (MCI), notifying a National Eligibility Entrance Test (NEET) - Competence of the MCI to introduce such a test - On 13th December, 2012, Supreme Court posted the matters for final hearing and allowed the respective entrance examinations, which had already been notified, to be held, but directed that results of the examinations were not to be declared until further orders of the Court - In order to safeguard the interests of students as also

the interest of hospitals, the bar imposed on 13th December, 2012, for 2013 entrance examinations is lifted and, to that extent, order of 13th December, 2012 modified - Results of the examinations already conducted allowed to be declared to enable the students to take advantage of the same for the current year - Indian Medical Council Act, 1956 - s.3.

Christian Medical College Vellore & Ors. v. Union of India and Ors. 573

EVIDENCE:

(1) Witness - Hostile witness - Appreciation of. (Also see under: Penal Code, 1860)

Khachar Dipu @ Dilipbhai Nakubhai v. State of Gujarat 341

(2) (i) Witness - Injured witness - Appreciation of.
(ii) Evidence - Witness - Interested witness - Appreciation of.

Md. Ishaque and Ors. v. State of West Bengal and Ors. 518

HAJJ POLICY:

(i) Policy for Haj Committee of India Pilgrims - Held: Practice of framing Hajj Policy on annual basis is ad-hoc and unsatisfactory - Requirement of a policy framework for five years - Proposed Hajj Policy 2013 - 2017 be posted on the website of the Ministry of External Affairs (MEA) inviting objections, comments and suggestions - Final policy to remain valid and operative for five years upto Hajj 2017 and may be amended only in case of any change in arrangements with the Kingdom of Saudi Arabia as per the agreement entered into between the two countries every year.

(ii) Hajj policy - Lady pilgrims - Held: Hajj Policy to pay attention to special needs of the lady pilgrims.

(iii) Hajj policy - Time bound conduct of Hajj process - Held: Time schedule with regard to the hajj process as fixed by the Haj Committee of India to be strictly adhered to - No authority or court to interfere in the process of submission of applications, scrutiny and allotment of seats by Haj Committees, if it leads to disturbing the time schedule.

(iv) Hajj policy - Accommodation in Saudi Arabia - Committee constituted by Supreme Court to make arrangements for pilgrims' accommodation in Saudi Arabia on a long term basis.

(v) Hajj policy - Air Fare - Government of India to invite tenders from three Saudi Airlines and all the Indian registered Airlines besides any other airlines that may be eligible under the Saudi Policy.

(vi) Hajj policy - Grievance redressal - Held: Government of India to give responsibility of the Hajj alone to an Officer of the level of the Joint Secretary - Hajj cell to also have a permanent and effective grievance redressal mechanism - An officer of the level of Deputy Secretary to be made in-charge of dealing with all grievances concerning hajj received from any of the Haj Committees or any individual or group of individuals - Central Government advised to constitute a high powered committee to review the functioning of the Haj Committee of India, the State Haj Committees and the Union Territory Haj Committees and to consider the suggestions or grievances made by those Committees with a view to improving their performance.

(vii) Hajj policy - Policy for Private Tour Operators (PTOs) - Held: Classification of PTOs to categories 1 & 2 fair and reasonable and strikes a proper balance between needs of the pilgrims and also

making provision for new entrants on a calibrated basis - Policy, approved after modifications by Supreme Court - Approved policy to be called Policy for Private Tour Operators for Hajj 2013-2017 - It shall remain valid for five years and shall not be questioned before any court or authority.

*Union of India & Ors. v. Rafique Shaikh
Bhikan & Ors.*

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HUMAN RIGHTS:

Craniopagus Twins (CTs), two minor girls - Parental consent not forthcoming either for investigation or for surgical operation - Duty of the Court - Right to life - Right to bodily integrity - Wardship Jurisdiction - Exercise of - Application of "least detrimental test" - Held: The Court has to adopt a balancing exercise - First and foremost consideration of the Court is "welfare of the children", which overrides the views or opinions of the parents - Proper medical investigation could not be carried out by the medical team of AIIMS, mainly, because of the parental opposition - No positive direction can be given in the absence of an expert medical opinion indicating that either of can be saved due to surgical operation - Directions issued considering the facts and circumstances of the case - Constitution of India, 1950 - Art. 21.

*Aarushi Dhasmana v. Union of India
and Ors.*

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INDIAN MEDICAL COUNCIL ACT, 1956:

s.3.

(See under: Education/Educational
Institutions)

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INTERNATIONAL LAW:

Incident of killing of two Indian fishermen by two marines of Italy - Supreme Court disposed of

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petitions holding that State of Kerala had no jurisdiction to investigate and try the case and Union of India had jurisdiction to proceed with the investigation and trial - Direction was given to Union of India to set up Special Court to try the case and to dispose of the same in accordance with the provisions of Maritime Zones Act, 1976, IPC, Cr.P.C. and provisions of UNCLOS, 1982 - Matter mentioned before supreme Court stating that Government of India received a communication from the Embassy of Italy which indicated that the Government of Italy had decided not to return the accused marines to India to stand trial - Handing-over the investigation to National Investigation Agency opposed by accused marines - Held: Supreme Court cannot be called upon to decide as to which would be the agency to investigate - It is for Central Government to take decision in the matter - As Central Government has duly taken steps in terms of the directions given in the main judgment, it is left to Central Government to take further steps in the matter.

Republic of Italy & Ors. v. Union of India & Ors. 466

KERALA BUILDINGS (LEASE AND RENT CONTROL) ACT, 1965:
(See under: Kerala Land Reforms Act, 1963) 307

KERALA LAND REFORMS ACT, 1963:
(i) ss. 80, 80B, 79A, 102 and 125 - Eviction proceedings - Reference u/s.125(3) by Rent Control Authority calling for decision as to status of appellant(s) as a tenant or Kudikidappukaran - Land Tribunal returned a finding that appellant(s) was not a Kudikidappukaran but was only a tenant occupying a building belonging to respondent and not a hut or homestead - Held: The only scope to

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challenge the conclusion of Land Tribunal was by way of an appeal under the provisions of 1965 Act by virtue of the specific stipulations contained in s.125(6) of the 1963 Act - Approach made by the appellant(s) by invoking s.80B of the 1963 Act in order to assert his right as Kudikidappukaran even without getting his status ascertained in appropriate proceedings u/s.80 of the 1963 Act was wholly invalid and rightly rejected by the original authority - Appellate Authority failed to understand the scope, power and jurisdiction of appellate power u/s.102 of the 1963 Act as against the order passed u/ s.80B of the 1963 Act - Order of Appellate Authority was, wholly without any jurisdiction and rightly set aside by High Court -Kerala Buildings (Lease and Rent Control) Act, 1965.

(ii) s.125 - Status of Kudikidappukaran - Determination - Bar of jurisdiction of Civil Court/ Rent Control Court - Held: Such question can be exclusively decided only by Land Tribunal - However, after such decision is rendered pursuant to a reference made to it and ultimate decision of Civil Court/Rent Control Court is taken up by way of appeal, the Appellate Court/appellate authority of a Civil Court or Rent Control Court while examining the merits of the decision of Civil Court or original authority on the question of eviction can also examine the correctness of the decision rendered by Land Tribunal as regards the status as a Kudikidappukaran.

Madhavi Amma & Ors. v. S. Prasannakumari & Ors. 307

MOTIVE:

Evidentiary value - Held: Motive loses its significance in a case of direct trust-worthy evidence.

(Also see under: Penal Code, 1860)

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NATURAL JUSTICE:

Principles of natural justice:

(See under: Service Law) 359

PENAL CODE, 1860:

(1) s.120B r/w ss.420, 467, 468, 471.

(See under: Code of Criminal Procedure, 1973) 539

(2) s.120B.

(See under: Criminal Trial) 520

(3) s.302 - Murder - Conviction u/s.304 (Part-I) by trial court - Altered to that u/s.302 by High Court - Held: Post mortem report showed injuries on vital parts of deceased's body, face was crushed and further there were marks of dragging - A quarrel or altercation has its own triviality but it gets magnified when dashing of vehicle is proven and nature of injuries caused on the deceased is taken note of - That apart, there is evidence that the body was dragged - Intention to cause bodily injury proved - Injuries sufficient in the ordinary course of nature to cause death - No flaw in the analysis made by High Court for altering the conviction u/s.304 Part-I recorded by trial Judge to that u/s.302.

Khachar Dipu @ Dilipbhai Nakubhai v. State of Gujarat 341

(4) s.302 - Prosecution of 3 accused - Acquittal by trial court - High Court convicting 2 of the accused and upholding acquitted of one - Held: Prosecution case is supported by evidence of eye-witnesses and medical evidence - Conviction upheld.

Habib v. State of Uttar Pradesh 476

(5) ss.302 and 376 - Rape and murder - Conviction

and death sentence and life imprisonment for offences punishable u/ss.302 and 376 respectively - High Court confirmed conviction, but reduced death sentence to life imprisonment and sentence of life imprisonment to 7 years imprisonment - Held: Conviction and sentence awarded by High Court upheld.

Bhaikon @ Bakul Borah v. State of Assam 497

(6) s.304 (Part-I) - Number of persons assaulted with various weapons - Death of one person and serious injuries to three others - Conviction of accused-appellants u/s.302 - Justification - Held: Mere fact that some witnesses were interested witnesses, not a ground to discard their evidence, when evidence taken as a whole supported the case of prosecution - Evidence of injured witnesses was believed by court - Prosecution succeeded in proving the place of occurrence, the time of occurrence as well as the manner of assault - Prosecution successfully proved that it was the appellants and others who had committed the crime - Several injuries were caused by the appellants on the vital parts of the deceased and the injured persons, with dangerous weapons and the injuries were sufficient, as certified by the doctor, in the ordinary course of nature to cause death - Appellants caused the injuries with deadly weapons, therefore, intention can be presumed regarding causing injuries likely to cause death, which falls u/s.304 (Part-I) - Conviction therefore converted to that u/s.304 (Part-I) with RI of 10 years and fine of Rs. 5,000/- each - 50% of the money recovered as fine to be paid to wife of deceased as compensation.

Md. Ishaque and Ors. v. State of West Bengal and Ors. 518

- (7) (i) ss.304 (Part-II), 323 and 325 - Prosecution for causing death and injuries - Conviction by trial court u/ss. 304, 323 and 325 - High Court modified conviction u/s. 304 to 304 (Part-II) and reduced the sentence - High Court order passed after proper analysis of the evidence, upheld.
 (ii) s.97 - Right to private defence - Exercise of - Held: Right to private defence should be used only as a shield to avert an attack - It should not be vindictive and cannot be used to retaliate - It cannot be exercised for causing more harm than necessary.
Thammu Panduranga Rao & anr. v. State of Andhra Pradesh 455
- (8) ss.396 and 376(2)(g) - Dacoity with murder and gang rape - Five accused - Conviction of accused-appellant - Challenged - Held: It cannot be said that conviction for dacoity with murder can be maintained only when five or more persons are convicted - Evidence against the four co-accused was not sufficient to convict them - If properly convicted each one of them were liable to be punished with death u/s.396 IPC - Since that did not happen, conviction of five persons or even one can stand - Witness was overpowered by several men before she was raped - Ample evidence of rape in view of the forensic report regarding her clothes and those of appellant - Entire evidence alongwith proper and clear identification at identification parade and in the court by victim leaves no manner of doubt that conviction of appellant was well founded.
Manoj Giri v. State of Chhatisgarh 489
- (9) ss.498-A and 302 r/w s.34 - Dowry death - Prosecution of husband and mother-in-law -

- Conviction by courts below relying on dying declaration of deceased - Held: Prosecution case established beyond reasonable doubt - On facts, dying declaration is acceptable - Conviction upheld.
Rakesh and Anr. v. State of Haryana 295
- PRACTICE AND PROCEDURE:
 (See under: Constitution of India, 1950) 472
- PREVENTION OF CORRUPTION ACT, 1988:
 (1) s. 13(2).
 (See under: Criminal Trial) 520
 (2) s.13(2) r/w s.13(1)(d).
 (See under: Code of Criminal Procedure, 1973) 539
- PROVINCIAL SMALL CAUSES COURTS ACT, 1887:
 s.23 - Adjudication of issue of title - By Small Causes Court - Held: Small Causes Court cannot adjudicate upon issue of title - Such question if decided incidentally by Small Causes Court, would not operate as res-judicata in a subsequent suit based on title - In the instant case, trial court rightly refused to go into such issue.
Ramji Gupta & Anr. v. Gopi Krishan Agrawal (D) & Ors. 398
- RIGHT TO INFORMATION ACT, 2005:
 ss.8(1)(j) and 11 - Information regarding ACR of public servant - Whether can be disclosed to third person - ACR record of an officer cannot be disclosed to third person, except in cases involving overriding public interest - However, such disclosure of information would be after following the procedure under s.11(1).
R.K. Jain v. Union of India & Anr. 411
- SENTENCE/SENTENCING:
 Death sentence commuted to life imprisonment -

Remission of sentence of life imprisonment - Held: Life imprisonment means imprisonment for whole of the life subject to remission power granted under Arts. 72 and 161 of the Constitution - When death sentence is commuted to life imprisonment, executive power of remission to be exercised cautiously, taking note of the gravity of the offence - Constitution of India, 1950 - Articles 72 and 161.

Bhaikon @ Bakul Borah v. State of Assam 507

SERVICE LAW:

(i) Reinstatement and regularization - Of part-time lecturer - Held: Temporary/ part-time lecturer working without any appointment letter and without any selection process, cannot be reinstated and his services cannot be regularized.

(ii) Termination - Temporary/part-time Lecturer - Working without appointment letter - Termination of service orally communicated - Legality of - Held: Termination simplicitor is not per se illegal and not violative of principles of natural justice.

B.T. Krishnamurthy v. Sri Basaveswara Education Society & Ors. 359

SUIT:

(1) Partition suit - By daughter - Claiming 1/10 share in the property of her deceased father - Claiming that the property was self-acquired - The 3 sons of deceased stated that the property was ancestral - One of the sons claimed a specific share in the property on the strength of a Will executed by deceased - Trial court held him entitled to the share through the will - High Court decreed the suit holding that the property was ancestral and therefore deceased and his four sons were entitled to equal share i.e. 1/5th - Thus four sons were entitled to 11/50th share and five daughters and

the sole descendant of one of the daughters were entitled to 1/50th share - Held: High Court rightly held that the property was ancestral and not self-acquired - No interference with order of High Court called for.

V.K. Surendra v. V.K. Thimmaiah & Ors. 386

(2) Suit by landlord against tenants alleging default in payment of rent - Tenants claiming to be owners of property on the strength of sale deed executed by mother of landlord - Small Causes Court decreed the suit, relying on a judgment passed in 1958 (whereby vendor (a Hindu female) was held to be life estate holder in the property) and held that by virtue of the judgment, the son of the vendor (landlord) acquired the property - Judgment confirmed by District Judge and High Court - Held: Courts below rightly decreed the suit.

(Also see under: Provincial Small Causes Courts Act, 1887)

Ramji Gupta & Anr. v. Gopi Krishan Agrawal (D) & Ors. 398

WITNESS:

Interested witness - Evidentiary value - A witness, if trustworthy, cannot be discarded merely because, he is interested.

(Also see under: Penal Code, 1860)

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