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recorded in court - In the instant case, courts below rightly considered the omissions as not material omissions amounting to contradictions covered by the Explanation to s.162.

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(2) (i) s.197 r/w s.239 CrPC and s.19 of P.C. Act - Previous sanction for prosecution of public servant - Appellant, an IAS, holding offices of Industries Commissioner in State Government and a nominee Director of MPSIDC - Misuse of position by appellant while discharging his responsibilities as a nominee Director of MPSIDC - Prosecution of - Held: The Governor under Clause 89 of Memorandum and Articles of Association of MPSIDC has absolute discretion to nominate anyone suitable as per his wisdom, as nominee Director of MPSIDC and is also vested with absolute discretion to remove a nominee Director - Participation of appellant in the meeting of the Board of Directors of MPSIDC was not on account of his holding the office of Industries Commissioner nor was it on account of his being a member of IAS cadre - Therefore, sanction if required, ought to have been obtained from the Governor of the State - However, since appellant was not holding the public office which he is alleged to have abused, when the first charge sheet was filed, there was no need to obtain any sanction before proceeding to prosecute him for the offences alleged against him - Prevention of Corruption Act, 1988 - s.19.

(ii) s.197 - Previous sanction for prosecution of public servant - Held: Sanction is essential only if,

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(iii) s.197 - Previous sanction for prosecution of public servant - Plurality of offices held by public servant - Held: If an accused holds a plurality of offices, sanction is essential only at the hands of the competent authority entitled to remove him from service of the office which he had allegedly misused.

(iv) s.197 - Previous sanction for prosecution of public servant - Public servant, a nominee Director of MPSIDC - Plea that such nominee Director was not incharge of conduct of business of MPSIDC nor was he responsible for its day to day activities - Held: Accusation implicating the appellant, is directly attributable to him as nominee Director of MPSIDC - His culpability lies in the mischief of passing the resolution in question - Implementation of said resolution is the consequential effect of the said mischief.

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(Also see under: Representation of the People Act, 1951)

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(1) (i) Delay in lodging of FIR - Held: Delay in lodging of FIR often results in embellishment as well as the introduction of a distorted version of what may have actually happened, but the facts of each case have to be examined to find out whether the delay in lodging the FIR is fatal to prosecution case - In the instant case, there is enough evidence of the fact that complainant was afraid of lodging the complaint to local police station which was under the control of one of the accused-appellants - Delay of 2 months and 21 days in lodging the FIR

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has been explained by the facts and the evidence adduced - FIR.

(ii) Delay in recording statements u/s 161 CrPC - Held: Complainant in the very first complaint had named the appellants as the persons who raided their house and picked up seven members of his family, and therefore, the fact that there was considerable delay of two years from the date of lodging the FIR in recording of statements of witnesses does not make their evidence in this regard doubtful.

(Also see under: Penal Code, 1860)

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(2) Medical education.

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(3) Medical education - Renewal of permission granted for third batch of MBBS -Subsequently rejected by Medical Council of India - Held: MCI has got the power to conduct a surprise inspection to find out whether the deficiencies pointed out have been rectified or not, especially when the College submits a compliance report - In the instant case, deficiencies pointed out by MCI team in its report are fundamental and very crucial - MCI has rightly passed the order rejecting the approval for renewal of permission.

Manohar Lal Sharma v. M.C.I. and Ors. 325

ENHANCEMENT OF ANNUAL INTAKE CAPACITY IN UNDERGRADUATE COURSES IN MEDICAL COLLEGE FOR THE ACADEMIC SESSION 2013-14 ONLY REGULATIONS 2013:

Medical admissions - Enhancement of annual intake capacity in undergraduate medical courses - Corrigendum Notification issued by Central Government confining benefits of Regulations, 2013 to Government Colleges only - Held: The Corrigendum is not violative of Art. 14 - In a given case, Central Government can modify the time schedule in respect of any of five classes or categories of applicants mentioned in Regulation 1999 - The corrigendum extending the last date was made applicable only to Government medical colleges recording the reason that the time would be very short so as to process the applications by MCI received from non-government medical colleges - Therefore, it cannot be said that the

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decision taken by Central Government is perverse, arbitrary or unreasonable, so as to strike down the corrigendum, under the extra-ordinary jurisdiction of the Court under Art. 32 of the Constitution - Establishment of Medical College Regulations, 1999 - Establishment of Medical College Regulations (Amendment), 2012 - Constitution of India, 1950 - Art.14 r/w Art. 32.

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ESTABLISHMENT OF MEDICAL COLLEGE REGULATIONS (AMENDMENT) ACT, 2010 (PART II):

r.8(3)(1) - Medical College - "Opportunity and time to rectify the deficiencies" - Held: After the inspection is carried out, compliance report is called for only to ascertain whether the deficiencies pointed out were rectified or not - If MCI is not satisfied with compliance, it can conduct a surprise inspection - After that, no further time or opportunity to rectify the deficiencies is contemplated nor further opportunity of being heard, is provided - In the instant case, order of MCI is not vitiated as violative of principles of natural justice, especially, when no allegation of bias or mala fide has been attributed against the doctors who conducted the surprise inspection - Administrative law - Natural

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justice - Opportunity of hearing.
(Also see under: Indian Medical Council Act, 1956)
Manohar Lal Sharma v. M.C.I. and Ors. 325

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Witness at enmity with accused - Evidence of - Held: Testimony of such a witness has to be carefully scrutinized by the court before it is accepted, but only on account of enmity, court cannot discard evidence of the witness altogether.
(Also see under: Penal Code, 1860)
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(Also see under: Education)
Dr. Kulmeet Kaur Mahal & Ors. v. State of Punjab & Ors. 320

INDIAN MEDICAL COUNCIL ACT, 1956:

Medical Council of India - Powers and responsibilities of, as regards maintaining standards of medical education - Explained - Held: MCI, while deciding to grant permission, is not functioning as a quasi-judicial authority, but only as

an administrative authority - Rigid rules of natural justice are, therefore, not contemplated - MCI has got power to conduct surprise inspection, which contemplates no notice - It has no power to dilute the statutory requirements - Minimum Standard Requirements for the Medical College for 150 Admissions Annually Regulations, 1999 - Schedule II - Natural justice.

(Also see under: Education/Educational Institutions)

Manohar Lal Sharma v. M.C.I. and Ors. 325

INDUSTRIAL DISPUTES ACT, 1947:

(i) s.10(1) - Reference of disputes to Labour Court - Jurisdiction of Labour Court - Explained.

(ii) s.10(1) - Reference of dispute to Labour Court - Defective reference - Held: In the instant case, the reference does not reflect the real dispute between the parties - On the contrary, the manner in which the reference is worded, shall preclude the appellant to put forth and prove its case as it would deter the Labour Court to go into those issues - The reference also implies that the appropriate Government has itself decided the contentious issues and assumed the role of an adjudicator which is, otherwise, reserved for Labour Court/Industrial Tribunal - The reference being defective, is quashed - Appropriate Government directed to make reference afresh, incorporating real essence of the dispute as discussed in the judgment.

M/s. Tata Iron & Steel Co. Ltd. v. State of Jharkhand & Ors. 437

INTERPRETATION OF STATUTES:

Construing of a statutory provision - Held: Words used in a statute are to be read as they are used, to the extent possible, to ascertain the meaning thereof - s. 71 of Maharashtra Value Added Tax, 2002 and s. 64 of Bombay Sales Tax Act, contain a bar only against Government officers from producing the documents mentioned therein - There is no bar therein against a party to produce any such document - Maharashtra Value Added Tax, 2002 - s.71 - Bombay Sales Tax Act, 1959 - s.64. (Also see under: Arbitration and Conciliation Act, 1996)

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JUDICIAL COMITY:

Judicial comity - Held: Is an integral part of judicial discipline and judicial discipline the cornerstone of judicial integrity - When there are binding decisions, judicial comity expects and requires the same to be followed.

(Also see under: Penal Code, 1860)

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JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2000:

s. 2(2) - Juvenile in conflict with law - Proof of juvenility - The school leaving certificate having been proved, accused could not be subjected to medical examination - Going by the school leaving certificate, since appellant was a juvenile on the date of occurrence, he can be tried only by JJ

Board. <i>Ranjeet Goswami v. State of Jharkhand & Anr.</i>	497
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MOTOR VEHICLES ACT, 1988: (i) Motor accident - Victim, a 17 year old student became disabled - Tribunal awarded compensation of Rs. 18,75,800/- with 7.5% interest - High Court reduced it to Rs. 12,45,800/- Held: Keeping in view the amount spent by parents on treatment of victim and the fact that he has practically become bedridden and would require care by a person throughout his life, compensation by Tribunal was just and proper - Judgment of High Court set aside and that of Tribunal restored. (ii) Motor accident claims - Award of just compensation - Discussed. <i>R. Venkata Ramana & Anr. v. The United India Insurance Co. Ltd. & Ors.</i>	451
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PENAL CODE, 1860: (1) (i) s. 302 r/w s.120-B - Police party picking up 7 members of complainant's family - Victims did not return - Conviction by courts below u/ss 364, 452, 120-B and 302 - Held: Evidence adduced is that the seven persons abducted by appellants were seen in different police stations and also in residential quarters near the police station - On this evidence, court cannot hold that the two appellants have killed the seven abducted persons only because they have not been traced or are found missing - The finding of guilt recorded by courts below u/s. 302 against appellants, was not correct either on facts or on law - Therefore, conviction of appellants u/s. 302 r/w s. 120-B is set aside. (ii) ss. 364 and 452 - Seven members of a family picked up by police party - Victims did not return - Held: It has been established that appellants had gone to the house of complainant in the early morning and picked up 7 members of his family - Therefore, conviction of appellants u/ss 364 and 452 was rightly maintained by High Court - The sentence of three years with fine u/s 452 is maintained - However, in the facts of the case, keeping in view Illustration (h) to s.220(1)CrPC, as seven persons had been abducted by appellants, they were guilty of seven offences and should be punished for each of these offences u/s. 364 - Therefore, it is directed that the fine of Rs.4000/- as imposed by trial court and the period of rigorous imprisonment of five years will be for each of the		

seven offences of abduction and the five years rigorous imprisonment for each of the seven offences of abduction will run consecutively and not concurrently - Code of Criminal Procedure, 1973 - s.220(1), III.(h).

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(2) ss. 302 and 307 - Accused causing death of his wife and 2 sons and attempting to cause death of his daughter - Sentenced to death by counts below u/s. 302 and life imprisonment u/s. 307 - Held: Apart from drawing a 'balance sheet' of mitigating and aggravating factors, socio-economic compulsions such as poverty are also factors that are to be considered by courts while awarding a sentence - In the instant case, it has come in evidence that accused suffered from economic and psychic compulsions - He had no prior criminal record - He had, in fact, intended to wipe out the whole family including himself on account of abject poverty - The possibility of reforming and rehabilitating him cannot be ruled out - He is not likely to be menace or threat or danger to society - In the facts and circumstances, the case does not fall under the rarest of rare category so as to warrant a punishment of death - The 'individually inconclusive and cumulatively marginal facts and circumstances' tend towards awarding lesser sentence of life imprisonment - Sentence u/s. 302 commuted to life imprisonment which would be till the end of his biological life - Sentence u/s 307 reduced to 7 years RI - In case the sentence of imprisonment for life is remitted or commuted to any specified period, the sentence of imprisonment

u/s. 307 shall commence thereafter.

Sunil Damodar Gaikwad v. State of Maharashtra 295

PRACTICE AND PROCEDURE:

Statement made by counsel before court - Disposal of case accordingly - Held: When a statement is made before the court it is, as a matter of course, assumed that it is made sincerely and is not an effort to over-reach the court - The statement by the counsel is not expected to be flippant, mischievous, misleading and certainly not false - This confidence in statements made by the counsel is founded on the assumption that the counsel is aware that he is an officer of the court.

(Also see under: Service Law)

H.P. Scheduled Tribes Employees Federation & Anr. v. Himachal Pradesh S. V. K.K. & Ors. ... 384

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RECOVERY OF DEBTS DUE TO BANKS AND FINANCIAL INSTITUTIONS ACT, 1993:

(i) ss.19 and 22 - Object of the Act and the procedure before Tribunal - Held: DRT and DRAT shall not be bound by the procedure laid down by the Code of Civil Procedure, but shall be guided by the principles of natural justice and subject to the rules framed - They have been conferred powers to regulate their own procedure, as the very purpose of their establishment is to expedite disposal of applications and appeals preferred

before them - They have the character of specialized institutions with expertise and have been conferred jurisdiction to decide the lis in speedy manner so that the larger public interest, that is, the economy of the country does not suffer.

(ii) s.19(25) - Powers of Tribunal - Held: s.19(25) confers limited powers - Tribunal does not have any inherent powers - Tribunal cannot assume the role of a court of different nature which can grant "liberty to initiate any action against the bank" - Taking note of a submission made at the behest of auction purchaser and then proceed to say that he is at liberty to file any action against bank for any omission committed by it, has no sanction of law - Therefore, the observation, namely, "liberty is also given to the auction purchaser to file action against the bank for any omission committed by it", is deleted - Judgment of High Court whereby it has declined to interfere with the grant of liberty by DRAT is also set aside.

(Also see under: Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002)

Standard Chartered Bank v. Dharminder Bhohi and Ors. 410

REPRESENTATION OF THE PEOPLE ACT, 1951:

(i) s.33-A r/w ss. 36 and 125-A - Right to information - Candidates contesting the election - Filing of nomination paper - Affidavit with particulars left blank - Furnishing of information as required under sub-s.(1) of s.33-A and as laid down in the judgments of Supreme Court in *Association for Democratic Reforms and People's Union for Civil*

Liberties - Principles culled out and directions issued - Held: Every candidate is obligated to file an affidavit with relevant information with regard to his/her criminal antecedents, assets and liabilities and educational qualifications - Filing of affidavit with particulars left blank will render the affidavit nugatory - It is clarified that Para 73 of the judgment in *People's Union for Civil Liberties* will not come in the way of Returning Officer to reject the nomination paper when affidavit is filed with particulars left blank.

(ii) s.36 r/w s.33-A - Scrutiny of nomination - Duty of Returning Officer - Explained - Furnishing of relevant information - Held: Returning Officer can compel a candidate to furnish information relevant on the date of scrutiny - Election Commission already has a standard draft format for reminding the candidates to file an affidavit as stipulated - Another clause may be inserted in the format for reminding the candidates to fill the blanks with relevant information thereby conveying the message that no affidavit with particulars left blank will be entertained.

(iii) s.125 A(i) - Filing of false affidavit and filing of affidavit with particulars left blank - Held: Filing of affidavit with particulars left blank will be directly hit by s.125A(i) - However, as the nomination paper itself is rejected by Returning Officer, there is no reason to penalize the candidate again for the same act by prosecuting him/her - If the candidate who has filed an affidavit with false information as well as the candidate who has filed an affidavit with particulars left blank are treated at par, it will

result in breach of fundamental right guaranteed under Art.19(1)(a) of the Constitution, viz., 'right to know', which is inclusive of freedom of speech and expression.

(Also see under: Constitution of India, 1950)

Resurgence India v. Election Commission of India & Anr. 360

SECURITISATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT, 2002:

Delay in disposal of cases and granting of adjournments by DRT and DRAT - Object of the Act - Explained -- Held: Grant of an adjournment should be an exception and not a routine and mechanical matter - Tribunals are expected to act in quite promptitude, so that an ingenious litigant does not take recourse to dilatory tactics -- In the case at hand, there was no reason for DRAT to keep on adjourning the matter and finally dispose it by passing an extremely laconic order - A curative step is warranted and Chairman and Members of DRAT shall endeavour to remain alive to the obligations as expected of them by such special legislations, namely, SARFAESI Act and RDB Act - Adjournments.

(Also see under: Recovery of Debts Due to Banks and Financial Institutions Act, 1993)

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SENTENCE/SENTENCING:

(1) Sentence for offences of abduction of seven person - Sentences to run consecutively.

(See under: Penal Code, 1860) 547

(2) (See under: Penal Code, 1860) 295

SERVICE LAW:

Reservation in promotion - Consequential seniority - Compliance of direction in M. Nagaraj's case - State of Himachal Pradesh issuing circulars dated 7.9.2007 and 23.1.2010 - Plea of State Government to await the finalization of 117th Constitution Amendment - Held: The material on record indicates the intention of the State not to comply with the earlier decision to implement the policy of reservation in promotions and grant of consequential seniority - State Government, directed to take a final decision on the issue - The proposed 117th Constitutional Amendment would not adversely affect the merits of the claim of petitioner, for grant of promotion with consequential seniority.

H.P. Scheduled Tribes Employees Federation & Anr. v. Himachal Pradesh S. V. K. K. & Ors. 384

UNIVERSITIES:

Academic matters - Held: In academic matters, unless there is a clear violation of statutory provisions, Regulations or Notification issued, courts shall keep their hands off since those issues fall within domain of the experts.

University Grants Commission & Anr. v. Neha Anil Bobde (Gadekar) 521

UNIVERSITY GRANTS COMMISSION ACT, 1956:

ss.12 and 26 - National Eligibility Test 2012 conducted by UGC - Challenged on the ground that changes of qualifying criteria reflected in final

declaration of final results was arbitrary, illegal, without authority and violative of Art. 14 of the Constitution - Held: All the steps taken by UGC were strictly in accordance with clause 7 of the Notification for NET Examination, 2012 - Prescribing the qualifying criteria as per clause 7 does not amount to a change in the rule as it was already pre-meditated in the notification - It is open to UGC to lay down any "qualifying criteria", which has a rational nexus to the object to be achieved, i.e. for maintenance of standards of teaching, examination and research - UGC has only implemented the opinion of Experts by laying down the qualifying criteria, which cannot be considered as arbitrary, illegal or discriminatory or violative of Art. 14 of the Constitution of India - University Grants Commission Regulations, 2010.

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UNIVERSITY GRANTS COMMISSION REGULATIONS, 2010:

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UTTAR PRADESH SUGAR UNDERTAKINGS (ACQUISITION) ACT, 1971:

s.2(h)(vi) r/w s.3 - 'Scheduled undertaking' - Vesting of, in Sugar Corporation - Land of sugar factory shown in revenue records as "*Parti Kadim Tilla*" (land not cultivated for a long time and in the form of hillock), held by consolidation authorities as vested in the Corporation - High Court directing to restore the name of sugar Company in revenue records - Held: All the three statutory authorities

concurrently held that there was no evidence on record to show that the subject land was ever held or occupied by the respondent-Company for agricultural purposes or that any agricultural activity was ever carried out on the same - These concurrent findings of fact could not have been reversed by the High Court in its writ jurisdiction - Therefore, the subject land has been rightly taken as vested in the Corporation.

(Also see under: Constitution of India, 1950)

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