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– relied on 833
Kalp Nath Rai v. State (Through CBI), AIR 1998 SC 201 889
Kalyan Chandra Sarkar v. Rajesh Ranjan, AIR 2005 SC 972 722
Kalyani (R.) v. Janak C. Mehta and Ors. 2008 (14) SCR 1249	
– relied on 963
Kanailal Sur v. Paramnidhi Sadhu Khan 1958 SCR 360 994
Kanaksingh Raisingh v. State of Gujarat AIR 2003 SC 691	
– relied on 122

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Kannadasan (N.) v. Ajoy Khose and Ors. 2009 (7) SCR 668 994 and 999
Karnail Singh v. State of Haryana 2009 (11) SCR 470 793
Karnataka Power Corporation Ltd. and Anr. v. K. Thangappan and Anr. 2006 (3) SCR 783	
– relied on	.... 938
Kartar Singh & Ors. v. State of Haryana 1983 (1) SCR 445	
– relied on	.... 396
Kavalappara Kottarathil Kochuni v. State of Madras AIR 1960 SC 1080	.... 668
Keshav Ganga Ram Navge v. The State of Maharashtra 1971 AIR 953	
– relied on	.... 854
Khushal Rao v. State of Bombay 1958 SCR 552	
– relied on	.... 122
Kirpal Singh v. State of Uttar Pradesh 1964 SCR 992	
– relied on	.... 479
Kishan Chand v. State of Haryana JT 2013 (1) SC 222	.... 887
– relied on 1178
Kishan Singh (D) thr. Lrs. v. Gурpal Singh and Ors. 2010 (10) SCR 16	
– relied on 938

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Kootha Perumal v. State through Inspector of Police, Vigilance and Anti-Corruption 2010 (14) SCR 864	853
Krishna Mohan Kul v. Pratima Maity and Ors. 2003 (3) Suppl. SCR 496		
– relied on	....	605
Krishnamurthy (C.S.) v. State of Karnataka 2005 (2) SCR 1163	....	853
Krishnan and Anr. v. Krishnaveni and Anr. 1997 (1) SCR 511	....	568
Krishta Goud and J. Bhoomaiah v. State of Andhra Pradesh & Ors., (1976) 1 SCC 157	....	255
Kulvinder Singh & Anr. v. State of Haryana 2011 (4) SCR 817		
– relied on	....	1177
Kumari Madhuri Patil and Another v. Additional Commissioner, Tribal Development and Ors. 1994 (3) Suppl. SCR 50		
– held inapplicable	....	212
Kunhimohammed (M.K.) v. P.A. Ahmedkutty & Ors. 1987 (3) SCR 1149	....	722
Kunju @ Balachandran v. State of Tamil Nadu 2008 (1) SCR 781		
– relied on	....	1178
Lakhan v. State of Madhya Pradesh 2010 (9) SCR 705		
– relied on	122
Lakshmi and Ors. v. State of Uttar Pradesh 2002 (1) Suppl. SCR 733	919

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Lakshmi Devi Sugar Mills Ltd. v. Pt. Ram Sarup 1956 SCR 916		
– relied on	1113
Lallu Manjhi and Another v. State of Jharkhand 2003 (1) SCR 1		
– relied on	....	818
Lalu Prasad Yadav and Anr. v. State of Bihar and Anr. 2009 (1) SCR 553	....	741
Laxman Kalu v. State of Maharashtra 1968 SCR 685		
– relied on	....	854
Laxman Naskar v. Union of India & Ors. 2000 (1) SCR 796		
– relied on	....	396
Laxmipat Choraria & Ors. v. State of Maharashtra 1968 SCR 624		
– relied on	....	1179
Liberty Oil Mills and Others v. Union of India and Ors. 1984 (3) SCR 676	....	510
Life Insurance Corporation of India v. Escorts Limited and Others 1985 (3) Suppl. SCR 909	....	510
– cited	515
Lt. Col. S.J. Chaudhary v. State (Delhi Administration) 1984 (2) SCR 438	1152

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Machhi Singh and Ors. v. State of Punjab 1983 (3) SCR 413	
– relied on 95 and 97
Madan Lal v. State of H.P. (2003) (2) Suppl. SCR 716	
– relied on	.... 771 and 793
Madhusudhan (K.R.) v. Administrative Officer 2011 (2) SCR 1061	
– relied on	.... 226
Mahabir Prasad Singh v. Jacks Aviation Pvt. Ltd. 1998 (2) Suppl. SCR 675	.... 1152
Mahadeo Prasad v. State of W.B. AIR 1954 SC 724	.... 965
Maharashtra State Financial Corporation v. Ballarpur Industries Ltd. AIR 1993 Bom 392	.... 272
Maharashtra State Financial Corporation v. Jaycee Drugs and Pharmaceuticals 1991 (1) SCR 480	.... 1000
Maharashtra University of Health Sciences and Ors. v. Satchikitsa Prasarak Mandal & Ors. 2010 (3) SCR 91	.... 668
– cited	.... 668
Mahesh & Anr. v. State of Madhya Pradesh (2011) 9 SCC 626	
– relied on	.... 1178
Mahesh Chand v. B. Janardhan Reddy and Anr. 2002 (4) Suppl. SCR 566	
– relied on 938

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Malkhan Singh & Ors. v. State of M.P. 2003 (1) Suppl. SCR 443	
– relied on 1180
Mamand v. Emperor AIR 1946 PC 45 1176
Managing Director, ECIL, Hyderabad & Ors. v. B. Karunakar & Ors. 1993 (2) Suppl. SCR 576	.... 665
Mani (P.) v. State of Tamil Nadu 2006 (2) SCR 486	.... 122
Mannu Raja v. State of Madhya Pradesh 1976 (2) SCR 764	
– relied on	.... 122
Manu Sharma v. State 2010 (4) SCR 103	.... 803
Marfani and Co. Ltd. v. Midland Bank Ltd. 1968 (2) All E.R. 573	
– held inapplicable	.... 669
Marshall Sons & Co. (I) Ltd. v. Sahi Oretrans (P) Ltd. & Anr. 1999 (1) SCR 311	.... 472
Masalti v. State of U.P. 1964 SCR 133	.... 887
Matru alias Girish Chandra v. State of U.P. AIR 1971 SC 1050	.... 834
Meera Sahni v. Lt. Governor of Delhi and Others 2008 (10) SCR 1012	.... 141
Meerut Development Authority v. Association of Management Studies and Anr. 2009 (6) SCR 663	
– cited 515
Mehta (M.C.) v. Kamal Nath & Others 1996 (10) Suppl. SCR 12	
– cited 515

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Micheal (E.) Raj v. Intelligence Officer, Narcotic Control Bureau 2008 (4) SCALE 592	
– relied on	.... 771
Mir Nagvi Askari v. CBI 2009 (13) SCR 124	
– relied on	.... 1179
Mohammed Ajmal Mohammadamir Kasab @ Abu Mujahid v. State of Maharashtra JT 2012 (8) SC 4	
– relied on	.... 98
Mohammed Ibrahim and Ors. v. State of Bihar and Anr. (2009) 8 SCC 751	
– relied on	.... 964
Mohan Anna Chavan v. State of Maharashtra 2008 (8) SCR 1072	.... 98
Mohanlal Shamji Soni v. Union of India & Anr., 1991 (1) SCR 712	.... 887
Mohd. Farooq Abdul Gafur & Anr. v. State of Maharashtra 2009 (12) SCR 1093	
– relied on	.... 98
Mohd. Iqbal Ahmed v. State of Andhra Pradesh 1979 (2) SCR 1007	
– relied on	.... 853
Mohd. Khalid v. State of W.B. 2002 (2) Suppl. SCR 31	
– relied on	.... 568
Mohd. Munna v. Union of India & Ors. etc. 2005 (3) Suppl. SCR 233	
– relied on 98 and 396

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Mohibur Rahman and Anr. v. State of Assam (2002) 6 SCC 715	
– relied on 921
Monica Bedi v. State of A.P. 2010 (13) SCR 522	
– relied on	.... 1179
Muniappan (C.) & Ors. v. State of Tamil Nadu, 2010 (10) SCR 262	.... 888
– relied on	.... 3
Municipal Corporation of Greater Bombay v. Bharat Petroleum Corporation Ltd. 2002 (2) SCR 860	
– cited	.... 668
Munna Kumar Upadhyay v. State of A.P. AIR 2012 SC 2470: 2012 (6) SCC 174	
– relied on	.... 1180
Murari Lal Gupta v. Gopi Singh (2006) 2 SCC (CrI.) 430	
– distinguished	.... 965
Musheer Khan @ Badshah Khan & Anr. v. State of Madhya Pradesh, 2010 (2) SCR 119	.... 888
Muthia (P C K) Chettiar and Ors v. V E S Shanmugham Chettair (D) and Anr. 1969 SCR 444	
– relied on	.... 321
Muthukanni Mudaliar v. Andappa Pillai AIR 1955 Mad 96 321
Myla Venkateswarlu v. State of Andhra Pradesh (2012) 5 SCC 226 793

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Mysore Minerals Ltd., M.G. Road, Bangalore v. Commissioners of Income Tax, Karnataka, Bangalore 1999 (2) Suppl. SCR 182	1085
Nagaraj (M.) & Ors. v. Union of India & Ors., 2006 (7) Suppl. SCR 336	....	722
Nagendra Nath Bora and Another v. Commissioner of Hills Division and Appeals, Assam and Others 1958 SCR 1240	....	993
Nahar Industrial Enterprises Ltd. v. Hong Kong and Shanghai Banking Corporation 2009 (12) SCR 54		
– cited	....	277
Namdeo v. State of Maharashtra AIR 2007 SC (Supp) 100		
– relied on	....	1178
Narinderjit Singh v. North Star Estate Promoters Ltd. (2012) 5 SCC 712		
– relied on	....	325
Narmada Bachao Andolan v. State of Madhya Pradesh 2011 (12) SCR 84	....	1130
Narwinder Singh v. State of Punjab 2011 (1) SCR 110		
– relied on	....	567
National Bank of Oman v. Barakara Abdul Aziz and Anr. JT 2012 (12) SC 432		
– relied on	941
Natwar Parikh & Co. Ltd. v. State of Karnataka & Ors., 2005 (2) Suppl. SCR 1100	722

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Nayak Ramesh Chandra Keshavlal v. State of Gujarat (2004) 11 SCC 399		
– relied on	771
New India Assurance Co.Ltd. v. Gopali & Ors. 2012 (6) SCR 834		
– relied on	....	226
Nika Ram v. State of Himachal Pradesh, 1973 (1) SCR 428	....	889
Nitya Hari Kundu and Others v. State of W.B. and Others AIR 2001 Calcutta 76		
– distinguished	....	165
Noida Entrepreneurs Association v. Noida and Ors. 2011 (8) SCR 25		
– relied on	....	939
Om Prakash Saini v. DCM Ltd. and Ors. (2010) 11 SCC 622		
– cited	....	745
Ousu Varghese v. State of Kerala (1974) 3 SCC 767	....	817
Palanitkar (S.N.) and Ors. v. State of Bihar and Anr. 2001 (4) Suppl. SCR 397	....	965
Panchhi & Ors. v. State of U.P. 1998 (1) Suppl. SCR 40	....	96
Pandey (L.K.) v. Union of India & Anr., 1985 Suppl. SCR 71	....	722
Pandit Kishori Lal v. King Emperor AIR 1945 PC 64	....	396
Pandurang Dattatraya Khandekar v. Bar Council of Maharashtra, Bombay and Ors. (1984 (1) SCR 414	1152

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Pannayar v. State of Tamil Nadu by Inspector of Police 2009 (13) SCR 367	920
Paramjeet Singh @ Pamma v. State of Uttarakhand 2010 (11) SCR 1064	886
– relied on	....	834 and 1178
Paras Ram v. State of Haryana, 1992 (2) Suppl. SCR 55	....	889
Parkash Singh Teji v. Northern India Goods Transport Company Private Limited and Anr. 2009 (6) SCR 278		
– relied on	....	418
Pepsu Road Transport Corporation, Patiala v. Mangal Singh and Ors. 2011 (6) SCR 564	....	465
– relied on	....	465
Poonam Chand Jain and Anr. v. Fazru 2004 (5) Suppl. SCR 525	....	938
– relied on	....	938
Prabha Shankar Dubey v. State of M.P. 2003 (6) Suppl. SCR 444	....	793
Prabhu Babaji Navie v. State of Bombay AIR 1956 SC 51		
– relied on	....	1177
Prabhulal (M.) v. Assistant Director, Directorate of Revenue Intelligence, 2003 (3) Suppl. SCR 958	....	890
Pradeep Narayan Madgaonkar & Ors. v. State of Maharashtra, AIR 1995 SC 1930	....	889
Pradip Chandra Parija & Ors. v. Pramod Chandra Patnaik & Ors., AIR 2002 SC 296	257

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Pramatha Nath Talukdar v. Saroj Ranjan Sarkar 1962 Suppl. SCR 297		
– relied on	938
Prema (K.) S. Rao and Another v. Yadla Srinivasa Rao and Ors. 2002 (3) Suppl. SCR 339		
– relied on	....	567
Prithipal Singh & Ors. v. State of Punjab & Anr., 2012 (14) SCR 862	....	.889
– relied on	....	818 and 1180
Prof. S.N. Hegde v. The Lokayukta ILR 2004 Kar 3892	....	999
Pushpam Pharmaceuticals Company v. Collector of Central Excise, Bombay 1995 Supp (3) SCC 462	....	31
Rabindra Nath Bose and Ors. v. Union of India and Ors. 1970 (2) SCR 697		
– followed	....	937
Radha Mohan Singh v. State of U.P. 2006 (1) SCR 519		
– relied on	....	479
Radheshyam Ajitsaria and Anr. v. Bengal Chatkal Mazdoor Union & Ors. 2006 (2) Suppl. SCR 918		
– cited	....	277
Radheshyam Sharma v. Govt. of M.P. through C.K. Jaiswal and Ors. 1972 MPLJ 796	745

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Raghav Prapanna Tripathi v. State of U.P. 1963 SCR 239		
– relied on	1177
Raghavamma (A.) and Another v. A. Chenchamma and Another 1964 SCR 933	605
Raghubir Saran (Dr.) v. State of Bihar 1964 SCR 336	....	963
Raghubir Singh v. State of U.P. AIR 1971 SC 2156	....	887
Rajasthan State Financial Corporation and Anr. v. Official Liquidator and Anr. 2005 (3) Suppl. SCR 1073		
– relied on	....	272
Rajendra Kumar Srivastava & Ors. v. Samyut Kshetriya Gramin Bank & Ors. 2009 (15) SCR 936		
– relied on	....	381
Rajesh Bajaj v. State NCT of Delhi 1999 (1) SCR 1012		
– relied on	....	964
Ram Chandra and Ram Bharosey v. State of Uttar Pradesh AIR 1957 SC 381	....	919
Ram Chandra v. Savitri Devi 2003 (4) Suppl. SCR 543	....	669
Ram Charan & Ors. v. The State of U.P. 1968 SCR 354		
– relied on	....	1176
Ram Kumar Pandey v. The State of Madhya Pradesh 1975 (3) SCR 519		
– relied on	835

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Rama Nand and Ors. v. State of Himachal Pradesh 1981 (2) SCR 444	919
Ramamurthy v. State of Karnataka, AIR 1997 SC 1739	722
Ramdeo Chauhan Alias Raj Nath v. State of Assam 2001 (3) SCR 669	....	1153
Ramesh and Ors. v. State of Tamil Nadu 2005 (2) SCR 493		
– relied on	....	941
Ramesh Harijan v. State of U.P. 2012 (6) SCR 688	....	888
– relied on	....	833
Rameshwar v. State of Rajasthan 1952 SCR 377	....	179
Ramjee Rai and Others v. State of Bihar 2006 (5) Suppl. SCR 240		
– relied on	....	771 and 793
Ramon Services Pvt. Ltd. v. Subhash Kapoor and Ors. 2000 (4) Suppl. SCR 550	....	1152
Ranakrishna (P.S.) Reddy v. M.K. Bhagyalakshmi 2007 (2) SCR 876		
– relied on	....	325
Rao (G.V.) v. L.H.V. Prasad and Ors. 2000 (2) SCR 123	....	965
Ravinderan v. Superintendent of Customs, AIR 2007 SC 2040	890
Ravji @ Ram Chandra v. State of Rajasthan 1995 (6) Suppl. SCR 195	98

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Raymond Limited (M/s.) and Anr. Etc. Etc. v. Madhya Pradesh Electricity Board and Ors. Etc. Etc. 2000 (4) Suppl. SCR 668 – relied on	940
Reserve Bank of India v. Peerless Company (1987) 2 SCR 1	....	742
Reva Electric Car Company Private Limited v. Green Mobil, 2011 (13) SCR 359 – relied on	....	591
Rukmini Narvekar v. Vijaya Satardekar & Ors. 2008 (14) SCR 271	....	60
Rupa Rani Rakshit & Ors. v. Jharkhand Gramin Bank & Ors. 2009 (15) SCR 1133 – relied on	....	381
Rupen Deol Bajaj (Mrs.) v. Kanwar Pal Singh Gill 1995 (4) Suppl. SCR 237	....	965
Sahara India Real Estate Corporation Limited & Ors v. Securities and Exchange Board of India & Anr. (2012) 8 SCALE 101 – held inapplicable	....	669
Sajjan Kumar v. Central Bureau of Investigation 2010 (11) SCR 669 – relied on	....	939
Samantaray (K.) v. National Insurance Co Ltd. 2003 (3) Suppl. SCR 669 – relied on	....	380
Sampath (S.P.) Kumar v. Union of India 1987 (1) SCR 435	999
Samsher Singh v. State of Punjab and Anr. 1975 (1) SCR 814	994

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Sanatan Naskar and Anr. v. State of West Bengal (2010) 8 SCC 249	481
Sandeep v. State of Uttar Pradesh, 2012 (5) SCR 952 – relied on	178
Sangeet and Anr. v. State of Haryana 2012 (11) Scale 140	....	95
Sankar Dastidar v. Smt. Banjula Dastidar and Anr. 2006 (10) Suppl. SCR 101 – relied on	....	940
Santokh Singh v. Izhar Hussain & Anr. 1974 (1) SCR 78 – relied on	....	1180
Santosh Devi v. National Insurance Company Ltd. 2012 (3) SCR 1178 – relied on	....	226
Santosh Kumar Satishbhushan Bariyar v. State of Maharashtra 2009 (9) SCR 90 – relied on	....	98
Sarabhai M. Chemicals v. Commissioner of Central Excise, Vadodara 2004 (6) Suppl. SCR 1010	....	31
Sardar Syedna Taher Saifuddin Saheb v. State of Bombay 1962 Suppl. SCR 496	....	256
Sardul Singh v. State of Bombay 1958 SCR 161	....	887
Sarla Verma & Ors. v. Delhi Transport Corporation & Anr. 2009 (5) SCR 1098 – relied on	227

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Sarwan Singh Lamba v. Union of India 1995 (1) Suppl. SCR 427	999
Sathappan (P.S.) (Dead) by Lrs. v. Andhra Bank Ltd. and Ors. 2004 (5) Suppl. SCR 188	360
Satish Mehra v. Delhi Administration 1996 (4) Suppl. SCR 197	....	60
Satvir Singh and Others v. State of Punjab and Another 2001 (3) Suppl. SCR 353	....	565
SBP & Co. v. Patel Engineering Ltd. and Another 2005 (4) Suppl. SCR 688 – relied on	....	591
Secretary, A.P. Public Service Commission v. Y.V.V.R. Srinivasulu and Others 2003 (3) SCR 742	....	869
Sethi Auto Service Station and Anr. v. Delhi Development Authority and Ors. 2008 (14) SCR 598	....	1130
Shaji (R.) v. State of Kerala, AIR 2013 SC 651	....	886
Shamnsaheb M. Multtani v. State of Karnataka 2001 (1) SCR 514 – relied on	....	567
Shamsher Singh v. State of Punjab and Anr. 1975 (1) SCR 814	994 and 1130
Shamu Balu Chaugule v. State of Maharashtra AIR 1976 SC 557 – relied on	834

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Sharad Birdhichand Sarda v. State of Maharashtra 1985 (1) SCR 88	802 and 886
– relied on	833, 834 and 1178
Sharma (O.P.) and Others v. High Court of Punjab and Haryana 2011 (6) SCR 301	....	1153
Shashi Kumar Banerjee and Others v. Subodh Kumar Bannerjee since deceased and after him his legal representatives and Others AIR 1964 SC 529 – relied on	....	605
Shiv Cotex v. Tirgun Auto Plast Private Limited and Others 2011 (10) SCR 787	....	1152
Shiv Shankar Singh v. State of Bihar and Anr. 2011 (13) SCR 247 – relied on	....	938
Shivaji @ Dadya Shankar Alhat v. State of Maharashtra 2008 (13) SCR 81	....	98
Shivaji Sahebrao Bobade v. State of Maharashtra 1974 (1) SCR 489 – relied on	....	122
Shivjee Singh v. Nagendra Tiwary and Ors. 2010 (7) SCR 667 – relied on	941
Shivlal & Another v. State of Chhattisgarh, 2011 (11) SCR 429 – relied on	178

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Shub Karan Bubna alias Shub Karan Prasad Bubna v. Sita Saran Bubna and Ors. 2009 (14) SCR 40	472
Sitaram v. Registrar of Co-operative Societies and Another 1986 MPLJ 567	....	745
Sri Krishna Coconut Co. etc. v. East Godavari Coconut and Tobacco Market Committee 1967 SCR 974		
– relied on	....	937
State Bank of India and Ors. v. Ramesh Dinkar Punde 2006 (4) Suppl. SCR 511		
– relied on	....	1113
State of A.P. and Others v. Goverdhanlal Pitti 2003 (2) SCR 908	....	870
State of A.P. v. Golconda Linga Swamy 2004 (3) Suppl. SCR 147	....	60
State of Andhra Pradesh v. Sree Rama Rao 1964 SCR 25		
– relied on	....	1113
State of Bihar v. Deokaran Nenshi and Anr. 1973 (3) SCR 1004		
– relied on	....	940
State of Goa v. Sanjay Thakran and Anr. 2007 (3) SCR 507		
– relied on	....	921
State of Gujarat v. Hon'ble Mr. Justice R.A. Mehta (Retd.) 2013 (1) SCALE 7	993
State of Gujarat v. Mohanlal Jitamalji Porwal and Anr. 1987 (2) SCR 677	496

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State of H.P. v. Pawan Kumar 2005 (3) SCR 417		
– relied on	771 and 793
State of H.P. v. Raghubir Singh 1993 (2) SCR 17	179
State of H.P. v. Tara Dutt and Anr. 1999 (4) Suppl. SCR 514		
– relied on	....	939
State of Haryana & Ors. v. Bhajan Lal & Ors. 1990 (3) Suppl. SCR 259	....	60 and 965
State of Haryana & Ors. v. Jagdish 2010 (3) SCR 716	....	255
State of Haryana v. National Consumer Awareness Group 2005 (3) SCR 1158	....	999
State of Himachal Pradesh v. Lekh Raj & Anr. 1999 (4) Suppl. SCR 286		
– relied on	....	1180
State of Jammu and Kashmir v. A.R. Zakki and Others 1991 (3) Suppl. SCR 216	....	742
State of Karnata v. Ameerjan 2007 (9) SCR 1105	....	853
State of Karnataka v. M.V. Mahesh 2003 (2) SCR 553	....	919
State of Karnataka v. N. Gundappa ILR 1990 Kar 4188	999
State of Kerala & Anr. v. N.M. Thomas & Ors. 1976 (1) SCR 906		
– followed	380

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State of Kerala v. A. Pareed Pillai and Anr. AIR 1973 SC 326	965
State of Kerala v. O.C. Kuttan 1999 (1) SCR 696	965
State of M.P. and Others v. Nandlal Jaiswal and Others 1987 (1) SCR 1	....	510
State of M.P. thr. CBI & Ors. v. Paltan Mallah & Ors. 2005 (1) SCR 710	....	834
State of M.P. v. Mohanlal Soni (2000) 6 SCC 338	....	60
State of M.P. v. Sheetla Sahai AIR 2009 SC Supp. 1744		
– relied on	....	1179
State of Madhya Pradesh v. Ratan Singh & Ors. 1976 (0) Suppl. SCR 552		
– relied on	....	396
State of Maharashtra v. Chandraprakash Kewalchand Jain 1990 (1) SCR 115	....	179
State of Maharashtra v. Damu S/o Gopinath Shinde and Others 2000 (3) SCR 880	....	803
State of Maharashtra v. Goraksha Ambaji Adsul 2011 (9) SCR 41		
– relied on	....	98
State of Maharashtra v. Sharad Chandra Vinayak Dongre and Ors. 1994 (4) Suppl. SCR 378		
– relied on	939
State of Maharashtra v. Som Nath Thapa 1996 (1) Suppl. SCR 189	60

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State of Maharashtra v. Suresh 1999 (5) Suppl. SCR 215	803 and 888
State of Orissa etc. v. Shri Arun Kumar Patnaik and Anr. etc. etc. 1976 (0) Suppl. SCR 59		
– relied on	....	937
State of Orissa v. Debendra Nath Padhi 2004 (6) Suppl. SCR 460:	....	60
State of Orissa v. Saroj Kumar Sahoo 2005 (5) Suppl. SCR 548	....	963
State of Orissa v. Sri Pyarimohan Samantaray and Ors. AIR 1976 SC 2617		
– relied on	....	937
State of Orissa v. Thakara Besra 2002 (3) SCR 173	....	179
State of Punjab v. Baldev 2010 (13) SCR 255	....	793
State of Punjab v. Gurmit Singh 1996 (1) SCR 532	....	179
State of Punjab v. Gurnam Kaur and Others 2009 (3) SCR 1195	....	803
State of Punjab v. Shamlal Murari 1976 (2) SCR 82	....	1152
State of Rajasthan v. Smt. Kalki and Another 1981 (3) SCR 504	....	817
State of Rajasthan v. Teja Ram 1999 (2) SCR 29		
– relied on	1177
State of U.P. & Ors. v. Jeet S. Bisht & Anr., 2007 (7) SCR 705	722

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State of U.P. and Ors. v. Pradhan Sangh Kshettra Samiti and Ors. 1995 (2) SCR 1015	1130
State of U.P. v. Anil Singh 1988 Suppl. SCR 611		
– relied on	....	771 and 793
State of U.P. v. Jalal Uddin & Ors. 2004 (5) Suppl. SCR 92		
– relied on	....	380
State of U.P. v. Krishna Gopal 1988 (2) Suppl. SCR 391		
– relied on	....	122
State of U.P. v. M.K. Anthony 1985 (1) SCC 505	....	817
State of U.P. v. M.K. Anthony, AIR 1985 SC 48	....	887
State of U.P. v. Pappu 2004 (6) Suppl. SCR 585	....	179
State of U.P. v. Ramesh Prasad Misra & Anr., 1996 (4) Suppl. SCR 631	....	888
State of U.P. v. Shambhu Nath Singh and Others 2001 (2) SCR 854		
– relied on	....	568
State of Uttar Pradesh v. Sanjay Kumar (2012) 8 SCC 537	....	95
State of Uttar Pradesh v. Sanjay Kumar 2012 (7) SCR 359	....	255
State of Uttar Pradesh v. Sattan @ Satyendra & Ors. 2009 (3) SCR 643	98
State of West Bengal v. M.R. Mondal and Anr. 2001 (2) Suppl. SCR 531	1130

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State Rep. by Inspector of Police v. Saravanan & Anr. 2008 (14) SCR 405	817 and 887
State through CBI v. Mahender Singh Dahiya 2011 (1) SCR 1104		
– relied on	....	833
State, Govt. of NCT of Delhi v. Sunil and Another 2000 (5) Suppl. SCR 144		
– relied on	....	771 and 793
Subedar Tewari v. State of U.P. & Ors., AIR 1989 SC 733	....	888
Sucha Singh v. State of Punjab 2003 (2) Suppl. SCR 35		
– relied on	....	122
Sukhram v. State of Maharashtra 2007 (9) SCR 44	....	920
Sundararajan (R.) v. State by DSP, SPE, CBI, Chennai 2006 (7) Suppl. SCR 499	....	853
Sunil (Dr.) Clifford Daniel v. State of Punjab JT 2012 (8) SC 639		
– relied on	....	1177
Sunil (Dr.) Clifford Daniel v. State of Punjab, (2012) 11 SCC 205	....	888
Sunil (Dr.) Clifford Daniel v. State of Punjab (2012) 8 SCALE 670	....	920
Sunil Kumar v. State Govt. of NCT of Delhi 2003 (4) Suppl. SCR 767		
– relied on	1178

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(2) Criminal justice - Abuse of process of court.

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(ii) s. 11(6) - Application for appointment of arbitrator - Issues to be decided by Chief Justice or his designate - Explained - Held: Designate

Judge was not required to undertake a detailed scrutiny of merits and de-merits of the case, almost as if he was deciding a suit - He was only required to decide preliminary issues - By the impugned order, much more than what is contemplated u/s 11(6) was sought to be decided, without any evidence being adduced by the parties - Impugned order of designate Judge is set aside, and matter remitted to be considered de novo.

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(1) O. 8, rr. 3, 4 and 5 - Manner in which allegations of fact in the plaint should be traversed - Legal consequences flowing from its non-compliance - Held: Burden of proving the facts rests on the party who substantially asserts the affirmative issues

and not the party who denies it, but there may be an exception thereto - On facts, plaintiff examined witnesses, proven entries in the books of accounts and also proven the acknowledgements duly signed by defendant - Defendant, on the contrary, except making a bald denial of the averments, did not state anything else - Nothing was put to the witnesses in the cross-examination when the documents were exhibited - Defendant could not have been permitted to lead any evidence when nothing was stated in pleadings - Courts below had correctly rested the burden of proof on defendant but High Court, in an erroneous impression, overturned the said finding - Evidence.

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(2) s.100 - Second appeal - Abuse of process of court - Delayed delineation of controversy - Procrastination on account of frequent adjournments - Non-demonstration of due diligence to deal with the matter - Deprecated - Held: Dispensation of expeditious justice is the constitutional command - Delayed delineation of a controversy in a court of law creates a dent in the normative dispensation of justice - In the instant case, High Court should not have shown indulgence of such magnitude by adjourning the matter when counsel for appellant was not present nor should have it directed fresh notice to appellant when there was nothing suggestive for passing of such an order - The counsel sought adjournment after adjournment in a nonchalant manner and the same were granted in a routine fashion - Duty of the counsel as the officer of the court to assist the court in a properly prepared manner and not to

seek unnecessary adjournments - All involved in the justice dispensation system, which includes the Judges, the lawyers, the judicial officers who work in courts, the law officers of the State, the Registry and the litigants, have to show dedicated diligence so that a controversy is put to rest - Chief Justice of High Courts to conceive and adopt a mechanism, regard being had to the priority of cases, to avoid inordinate delays in matters which can really be dealt with in an expeditious manner - Judiciary.

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(1) s.157 - Three days' delay in sending express report to Magistrate - Held: There was no delay in reporting the matter to police - FIR was recorded without delay and investigation started on the basis of FIR - In the circumstances, delay, in forwarding the report to Magistrate does not in any way vitiate the case of prosecution - Besides, no prejudice is shown to have been caused to accused.

(Also see under: Penal Code, 1860)

Manga @ Man Singh v. State of Uttarakhand 175

(2) ss.161 and 164 - Statements u/s.161 and u/s.164 - Difference - Held: Statements u/s.161 can be used only for the purpose of contradiction - Statements u/s.164, however, can be used for both corroboration and contradiction - Evidence Act, 1872 - s.157.

(ii) s.164 - Object of - Discussed.

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(5) s.313 - Examination of accused u/s.313 - Purpose - Held: Is to meet the requirement of principles of natural justice, i.e. *audi alteram partem* - No matter how weak the evidence of prosecution may be, it is the duty of court to examine the accused, and to seek his explanation as regards incriminating material that has surfaced against him - Circumstances not put to accused in his examination u/s.313 CrPC, cannot be used against him and must be excluded from consideration.

(Also see under: Penal Code, 1860)

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(6) s.313.

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(7) ss.366, 432 and 433A - Double murder - Death sentence confirmed by High Court - Held: In the peculiar facts and circumstances, the case did not fall within the category of 'rarest of rare case' though it called for stringent punishment - Though accused committed murder of his wife and daughter, he was feeling frustrated because of the attitude of his wife and children - It was thirst for retaliation, which became the motivating factor - Moreover, probability of appellant's rehabilitation

and reformation not foreclosed - Therefore, his sentence modified from death penalty to life imprisonment till the end of his life, subject, however, to remission, if any, to be granted by appropriate Government satisfying the conditions prescribed in s.432 and further substantiate check u/s.433A by passing appropriate speaking orders.

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(9) ss.439 and 173(8) - Bail - Economic offences - Charge-sheets filed against appellant and others for offences punishable u/ss 420, 409 and 477-A IPC and s.13(2) r/w s.13(1)(c) of Prevention of Corruption Act - Further investigation u/s 173(8) pending - Held: Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail - In the status report, it is claimed that CBI has to examine various persons from different organizations to ascertain the facts related to the case - Taking note of all these aspects, appellant cannot be released at the stage - However, CBI is directed to complete the investigation and file charge sheet(s) as early as possible.

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(10) ss.439 and 173(8) - Bail - Economic offences - Factors to be taken into consideration while granting bail - Explained - Charge-sheets filed against appellant and others for offences

punishable u/ss 420, 409 and 477-A IPC and s.13(2) r/w s. 13(1)(c) of Prevention of Corruption Act - Charges relating to amassing of huge ill-gotten wealth, allotment of lands on relaxed norms, abuse of public office, laundering bribe money through investment in bogus companies etc. - Further investigation in progress - Held: Economic offences having deep rooted conspiracies and involving huge loss of public funds need to be viewed seriously and being a class apart they need to be visited with a different approach in the matter of bail - Release of appellant at the stage would hamper investigation as it may influence the witnesses and tamper with the material evidence - However, CBI is directed to complete the investigation expeditiously and file the charge sheet(s).

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(11) (i) s.482 - Scope of - Death of married woman - Sessions Judge discharged the accused-appellants, namely, husband and in-laws of deceased - High Court quashed the discharge order - Held: Not justified - Post-mortem report, Central Forensic Science Laboratory's report, as also inquest report, sufficient to exculpate the appellants from the allegations levelled in the complaint - The matter needed to have been evaluated, on the basis of one of the parameters laid down in *Bhajan Lal's* case, namely, whether the criminal proceedings initiated by complainant were actuated by malice and ulterior motive for wreaking vengeance on the accused with a view to spite him due to some private/personal grudge

- Judicial conscience of High Court ought to have persuaded it, on the basis of the material examined by it, to quash the criminal proceedings initiated against appellants - Criminal proceedings against appellants set aside - Penal Code, 1860 - ss.498A, 304B r/w s.120-B.

(ii) s.482 - Jurisdiction of High Court, if it chooses to quash the initiation of the prosecution against an accused, at the stage of issuing process, or at the stage of committal, or even at the stage of framing of charges - Discussed - Steps delineated to determine the veracity of a prayer for quashing, raised by an accused by invoking the power vested in High Court u/s.482.

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(12) (i) s.482 - Termination of contract between a proprietary firm and a company - Initiation of arbitration proceedings - Three complaints by the proprietors of the firm dismissed - One complaint entertained by Magistrate - Petition for quashing of criminal proceedings - Dismissed by High Court - Held: The criminal proceedings were abuse of the process of court - Complaint case was not maintainable.

(ii) ss.468, 469, 472 and 473 - Termination of contract between proprietary firm and company - Complaint by the proprietor of the firm against officials of the company after a period of 15 years - Held: Limitation for taking cognizance is 3 years - In the fact situation of the case, the offence alleged is not a continuing offence, even though the effect caused by it may be continuous - Limitation.

(iii) s.202 (as amended by Amendment Act, 2005) - It is mandatory for the court to postpone the issue of process, if the accused falls outside the territorial jurisdiction of the court - In the instant case, Magistrate was wrong in issuing summons as accused were outside his territorial jurisdiction.

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COMPETITION LAW:

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Rangi International Ltd. v. Nova Scotia Bank & Ors. 659

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CONSTITUTION OF INDIA, 1950:

(1) Arts. 14, 21, 72 and 161.

(See under: Narcotic Drugs and
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(2) Art. 32 - Writ of habeas corpus.

(See under: Air Force Act, 1950) 781

(3) (i) Art. 32 - Writ petition challenging approval granted by Government of India for acquisition of majority stake in CIL and for a direction to ONGC to exercise its right of pre-emption over sale of shares of CIL - Held: The decision taken by ONGC not to exercise its RoFR was taken after elaborate and due deliberations - Court cannot sit in judgment over the commercial or business decision taken, unless the same is in clear violation of any statutory provisions or perverse or for extraneous considerations or improper motives - On facts, as well as on law, ONGC and Government of India have taken a prudent commercial and economic decision in public interest - It cannot be said that the decision is mala fide or actuated by any extraneous or irrelevant considerations or improper motive - Public interest litigation.

(ii) Arts. 298 and 299 - Power of Union or States to carry on trade and to enter into contracts - Held: State and its instrumentalities can enter into various contracts which may involve complex

economic factors - If the decision is taken bona fide and in public interest, the mere fact that decision has ultimately proved to be a wrong one, that itself is not a ground to hold that the decision was mala fide or taken with ulterior motives.

(iii) Art. 151 - Reports of Comptroller and Auditor General of India - Status of - Explained - In the instant case, it is factually and legally incorrect to suggest that any exploration carried out beyond the stated date was beyond the provision of PSC - CAG's views on that aspect cannot be accepted - Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971 - ss. 10, 13 and 16.

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(4) Arts. 32 and 142.

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(5) Art.136 - Scope of - Held: The width and plenitude of powers available under Art.136 would permit a reappraisal at the apex stage in cases of manifest injuries.

(Also see under: Penal Code, 1860)

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(6) Art. 136 - Scope of - Held: When a conclusion is arrived at by courts below which is manifestly erroneous and unsupported by evidence on record, Supreme Court, in exercise of power under Art. 136, can re-evaluate evidence and interfere.

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(7) Art. 136.

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(8) Art. 141 - Determination made by Supreme Court on merits - Proposition upheld as legal, extended to other similarly situated parties since they were also heard by the Court.

Kavi Raj & Others v. State of J&K & Ors. 620

(9) Art. 226 - Commercial transaction - Subsequently, purchaser filed criminal case against the sellers u/ss.406 and 420 IPC - Police report that the case was of civil nature and no criminal offence made out - In protest petition by the complainant, CJM took cognizance of the case - Writ petition against order of CJM - High Court quashed the criminal case in respect of one of the accused - Held: A case which may apparently look to be of civil nature may also contain ingredients of criminal offences - The facts of the instant case show that it was not purely civil in nature - Neither the FIR nor the protest petition was mala fide, frivolous or vexatious - Thus, interference of High Court in exercise of its jurisdiction u/Art.226 was not justified - Prima facie case is made out against accused that they had the intention to cheat - Penal Code, 1860 - ss.406 and 420.

Arun Bhandari v. State of U.P. and Ors. 961

(10) Art. 226 - Power of writ court to correct errors apparent on the face of record - Discussed.

(Also see under: Land Acquisition Act, 1894)

Bangalore Development Authority v. M/s Vijaya Leasing Ltd. & Ors. 140

(11) Art. 226 - Writ petition - Alternative remedy

- Held: In the instant case, Division Bench of High Court has rightly exercised its jurisdiction under Art. 226 and the alternative remedy of appeal is no bar in exercising that jurisdiction, since the order passed by Joint Registrar was arbitrary and in clear violation of second proviso to s.53(1) of the Act - Madhya Pradesh Co-operative Societies Act, 1960 - s.78.

(Also see under: Co-operative Societies)

State of M. P. and Others v. Sanjay Nagayach and Ors. 738

(12) Art.226.

(See under: State Bank of India Officers' Service Rules) 1109

(13) (i) Arts. 226 and 142 - Writ petition seeking direction to Land Acquisition Collector to complete acquisition proceedings - Held: Court cannot compel Land Acquisition Collector to pass awards in respect of land acquisition proceedings which had already lapsed - In the instant case, since owners have suffered damages, they are entitled to compensation - In order to do complete justice, it is ordered that each of the petitioners shall be paid a lump sum amount of Re.1 lakh towards damages for the hardships they have undergone on account of seepage resulting in dampness and cracks to their residential buildings - Land Acquisition Act, 1894 - ss. 4(1), 6, 48 and 36.

(ii) Art. 226 - Writ petition seeking direction to Land Acquisition Collector to act in terms of letter issued by Secretary to Government - Held: Is wholly misconceived - If a subordinate authority in

Government does not act in terms of direction or instruction issued by superior authority, it is not for court to order compliance, if it is not otherwise governed by a statutory procedure.

Jayamma & Ors. v The Deputy Commissioner, Hassan Dist., Hassan and Ors. 245

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s.14(1)(f) - Medical treatment - Deceit - Appellant's son suffering from convulsions/fits - First respondent, an Ayurvedic practitioner, had claimed through advertisement that he had total cure for such convulsions/fits - Allegation that he administered Allopathic medicines passing them off as ayurvedic medicines - Held: First respondent was guilty of unfair trade practice and adopted unfair method and deceptive practice by making false statement orally as well as in writing - Both the child and his mother (appellant) suffered physical and mental injury due to misleading advertisement, unfair trade practice and negligence of respondents - Appellant and the child thus entitled for enhanced compensation for the injury suffered by them - Since no reason given by National Commission for deducting 50% of compensation amount and to deposit the same with the Consumer Legal Aid Account of the Commission that part of the order passed by National Commission set aside - Amount of compensation enhanced from Rs.5 lakhs (as directed by National Commission) to Rs.15 lakhs.

Bhanwar Kanwar v. R. K. Gupta & Anr. 151

CONTEMPT OF COURT:

(1) Judgment and order passed by a particular Court, especially the Supreme Court if alleged

not to have been complied with, will have to be taken care of and addressed by the Court which passed the order - In the instant case, petitioner wrongly approached High Court for initiating contempt proceedings related to a direction of Supreme Court and the same was rightly not entertained by High Court.

M/s Rajureshwar & Associates v. State of Maharashtra & Ors. 461

(2) Life convict filed writ of Habeas Corpus for his immediate release stating that he had already undergone full sentence of 20 years with remission - Supreme Court directed State of West Bengal to consider the claim and proceed to conclude the sentence for the purpose of consideration of remission - Contempt petition filed by the life convict contending that inspite of the order of Supreme Court and W.B. Act, respondents had not granted remission and had not released him - Held: In West Bengal, there is a duly constituted Sentence Review Board for consideration of applications for premature release made by life convicts - On facts, State Sentence Review Board, after careful consideration of all the aspects, had declined to recommend petitioner's premature release - State Government accepted the recommendation of State Sentence Review Board and communicated its decision to petitioner - There was no violation of the order of Supreme Court - West Bengal Correctional Services Act, 1992 - Code of Criminal Procedure, 1973 - s.432. (Also see under: Penal Code, 1860)

Life Convict Bengal @ Khoka @ Prasanta Sen v. B.K. Srivastava & Ors. 392

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Chairman, Rajasthan State Road Transport Corporation & Ors. v. Smt. Santosh & Ors. 720

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Supersession of elected bodies - Held: Co-operative philosophy on society must rest on free universal association, democratically governed and conditioned by equity and personal liberty - Registrar/Joint Registrar, while exercising power of supersession has to form an opinion and that opinion must be based on some objective criteria, which has nexus with final decision and he is bound to follow judicial precedents - The manner in which State Government took so much interest by spending huge public money pursuing the matter upto Supreme Court, that too without following binding precedents of High Court, deprecated - In view of mushrooming of cases in various courts challenging orders of supersession of elected committees, general directions given - Precedent - Judicial deprecation.

(Also see under: Madhya Pradesh Co-operative Societies Act, 1960)

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(Also see under: Code of Criminal Procedure, 1973)

Udai Shankar Awasthi v. State of U.P. & Anr. 935

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(1) 'Continuing offence' and 'Instantaneous offence' - Difference between.

(Also see under: Code of Criminal Procedure, 1973; and Limitation)

Udai Shankar Awasthi v. State of U.P. & Anr. 935

(2) Criminal conspiracy - Proof - Held: Offence of criminal conspiracy can be proved, either by adducing circumstantial evidence, or by way of necessary implication - However, if the

circumstantial evidence is incomplete or vague, it becomes necessary for the prosecution to provide adequate proof, by adducing substantive evidence in court - In order to constitute the offence of conspiracy, it is not necessary that the person involved has knowledge of all the stages of action - Mere knowledge of the main object/purpose of conspiracy, would warrant attraction of relevant penal provisions.

(Also see under: Penal Code, 1860)

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(Also see under: Penal Code, 1860)

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(2) Adverse inference against accused - Held: Can be drawn only and only if incriminating material stands fully established, and accused is not able to furnish any explanation for the same - However, accused has right to remain silent, as he cannot be forced to become a witness against himself.

(Also see under: Penal Code, 1860)

Sujit Biswas v. State of Assam 830

(3) Conducting of trial - Adjournments - Held: A criminal trial has its own gravity and sanctity - Trial courts shall keep in mind the statutory provisions

and their interpretation by Supreme Court - They should not become mute spectators when a trial is being conducted by allowing the control to counsel for parties - They are required to monitor - Besides, dispensation of criminal justice is not only a concern of the Bench but has to be the concern of the Bar as well - In the instant case, trial was conducted in an extremely haphazard and piecemeal manner - Court expresses its concern about the manner in which trial had been conducted - Administration of justice - Criminal justice - Code of Criminal Procedure, 1973 - s. 309 - Advocates.

(Also see under: Penal Code, 1860)

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(4) (See under: Investigation) 1

CUSTOMS ACT, 1962:

s.28, proviso and s.112 - Levy of customs duty and penalty - Challenge to - Plea of assessee that the demand of duty along with the penalty was barred by limitation turned down by Tribunal - Held: Conclusion of Tribunal that mere non-payment of duties is equivalent to collusion or willful misstatement or suppression of facts, is untenable - For operation of the proviso, intention to deliberately default is a mandatory prerequisite - In the instant case, from the evidence adduced by assessee, an inference of bona fide conduct is drawn in its favour - Therefore, the extended period of limitation under the proviso could not be invoked.

M/s. Uniworth Textiles Ltd. v. Commissioner of Central Excise, Raipur 27

DECREE:

Execution of decree - Petition for execution of decree entitling the plaintiff to possession of a plot - Rejected on the ground that decree was not executable because of contradictory reports - Held: Judgment in favour of plaintiff was delivered by considering a report dated 17.9.1989 and a sketch of land in question, which were made by local commissioner and both are part of record - Once decree was made in favour of plaintiff, in pursuance of judgment delivered by District Judge, executing court should not have looked into other reports which had been submitted to it afterwards - Local Commissioner's report dated 17.9.1989 along with sketch clearly describes land in question - Executing court ought to have considered it - Orders of executing court and High Court set aside - Executing court directed to do the needful for execution of decree taking into account local commissioner's report dated 17.9.1989.

Satyawati v. Rajinder Singh and Anr. 471

DELAY/LACHES:

(1) Delay in execution of decree - Execution petition filed in 1996 - However, decree not executed till date - Held: There should not be unreasonable delay in execution of a decree - Executing court will do the needful at an early date so as to see that the long drawn litigation which was decided in favour of appellant is finally concluded and he gets effective justice.

(Also see under: Decree)

Satyawati v. Rajinder Singh and Anr. 471

(2) (See under: FIR) 815

(3) (See under: SEBI (Substantial Acquisition of Shares And Takeovers) Regulations, 1997) 662

(4) Question of delay in launching criminal proceedings - May not by itself be a ground for dismissing the complaint at the threshold.

(Also see under: Code of Criminal Procedure, 1973)

Udai Shankar Awasthi v. State of U.P. & Anr. 935

DELHI SPECIAL POLICE ESTABLISHMENT ACT, 1946:

s. 5(3).

(See under: Investigation) 1

DOCTRINES/PRINCIPLES:

Ejusdem generis.

(See under: Penal Code, 1860) 175

DOWRY PROHIBITION ACT, 1961:

s.2.

(See under: Penal Code, 1860) 449

ECONOMIC OFFENCES:

Bail.

(See under: Code of Criminal Procedure, 1973) 493
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ETHICS:

Professional ethics.

(See under: Consumer Protection Act, 1986) 151

EVIDENCE:

(1) Burden of proof - Held: The burden of proving any form of *mala fide* lies on the party alleging it.

(Also see under: Customs Act, 162)

M/s. Uniworth Textiles Ltd. v. Commissioner of Central Excise, Raipur 27

(2) Circumstantial evidence.

(See under: Penal Code, 1860) 917

(3) (i) Circumstantial evidence - Last seen theory.

(ii) Evidence of hostile witness.

(iii) Evidence of police witness.

(iv) Discrepancies in depositions.

(See under: Penal Code, 1860) 884

(4) Conduct of accused - Act of absconding - Effect - Held: Mere abscondance of an accused does not lead to a firm conclusion of his guilty mind - In a given situation, such an action may be part of natural conduct of a person - Abscondance is in fact relevant evidence, but its evidentiary value depends upon surrounding circumstances, and, the same must only be taken as a minor item in evidence for sustaining conviction.

(Also see under: Penal Code, 1860)

Sujit Biswas v. State of Assam 830

(5) Deposition of sole eye-witness - Held: Conviction can be recorded on the testimony of a single witness if his version is clear and reliable, for the principle is that the evidence has to be weighed and not counted - Process to evaluate the evidence of single witness, explained.

(Also see under: Penal Code, 1860)

Kusti Mallaiah v. State of Andhra Pradesh 815

(6) (i) Non-examination of independent witnesses.

(ii) Evidence of Police witnesses/official witnesses.

(See under: Narcotic Drugs and Psychotropic Substances Act, 1985) 770
and 791

(7) (i) Variance in the pleadings in plaint and the evidence adduced by plaintiffs - Effect - Held: On facts, the variance was absolutely very little - It did not remotely cause prejudice to defendant - In all circumstances, it cannot be said that because of variance between pleading and proof, the rule of *secundum allegata et probata* would be strictly applicable.

(ii) Evidence - Books of accounts maintained in regular course of business - Held: Should not be rejected without any kind of rebuttal or discarded without any reason.

(iii) Burden of proof - Evasive denial by defendant - Effect.

(Also see under: Code of Civil Procedure, 1908)

Gian Chand & Brothers and Anr. v. Rattan Lal @ Rattan Singh 601

(8) Testimony of related witnesses - Non-examination of independent witnesses - Discussed - Judicial notice.

(Also see under: Penal Code, 1860)

Manga @ Man Singh v. State of Uttarakhand 175

(9) Weapon of offence - Recovered at the behest of the accused - Blood stuck on the weapon - Failure by serologist to detect origin of the blood due to dis-integration of the serum - Effect - Held: It does not mean that the blood stuck on the

weapon of offence could not have been human blood at all - However, unless the doubt is of a reasonable dimension, which a judicially conscientious mind may entertain with some objectivity, no benefit can be claimed by accused in this regard - Once recovery was made in pursuance of disclosure by the accused, matching or non-matching of blood group lost its significance.

(Also see under: Penal Code, 1860)

R. Shaji v. State of Kerala 1172

EVIDENCE ACT, 1872:

(1) (i) s.3 - Appreciation of evidence - In civil case and in criminal case - Held: Basis for appreciating evidence in a civil or criminal case is same - However, since in a criminal case, the life and liberty of a person is involved, by way of judicial interpretation, courts have created the requirement of a high degree of proof.

(ii) s.9 - Test identification parade - Held: Conducting a test identification parade is meaningless if the witnesses know the accused, or if they have been shown his photographs, or if he has been exposed by the media to the public - In the instant case, just after the incident took place, the main accused being a highly ranked police official, wide publicity was given to the same by the media - Moreover, the witnesses made it clear that they were acquainted with the appellant - In such fact-situation, holding / non-holding of Test Identification Parade lost its significance.

(iii) s.134 - Evidence of witness - Appreciation of - Held: It is not the number of witnesses, but the quality of their evidence which is important -

Evidence must be weighed and not counted.

(iv) (ii) s.157.

(Also see under: Code of Criminal Procedure, 1973; and Penal Code, 1860)

R. Shaji v. State of Kerala 1172

(2) s.11 - Omission of important facts affecting probability of the case - Held: Is a relevant factor u/s.11 to judge the veracity of prosecution case. (Also see under: Penal Code, 1860)

Sujit Biswas v. State of Assam 830

(3) s.27.

(See under: Penal Code, 1860) 801

(4) s.32 - Relevance of dying declarations - Approach to be adopted by courts with respect thereto - Held: By enacting s.32(1), legislature has accorded a special sanctity to the statement made by a dying person as to the cause of his death - When such statement is made at the earliest opportunity without any influence being brought on the dying person, there is absolutely no reason to take any other view for the cause of his or her death - Absence of any corroboration cannot take away its relevance - On facts, dying declarations of appellant's wife gave the real cause of her burn injuries - The victim having suffered 91% burn injuries, there was hardly any time to secure the presence of magistrate or to record her statement in a detailed question-answer form - Absence of these factors itself did not take away the evidentiary value of the recorded statement - Prosecution proved its case beyond any reasonable doubt.

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EXCISE:		
Grant of IMFL license.		
(See under: Orissa Excise Rules, 1965)	1129
FIR:		
Delay in registration of FIR - Held: In the instant case, process u/s 174 CrPC was followed after the dead body was located - Relatives of deceased were searching for it - They subsequently identified her photograph and her belongings - In the circumstances, it cannot be said that there has been delay in lodging the FIR - Code of Criminal Procedure, 1973 - s.174 - Delay/Laches. (Also see under: Penal Code, 1860)		
<i>Kusti Mallaiah v. The State of Andhra Pradesh</i>	....	815
GUJARAT ANIMAL PRESERVATION ACT, 1954:		
s.5(1A) - Truck transporting buffalo calves, seized - Application for release of truck - Held: The vehicle impounded by respondents was transporting 'buffalo calves' which does not fall under the list of prohibited animals mentioned in sub-s. (1A) of s.5 - Thus, s.6B(3) of the Amendment Act, 2011 could not be invoked in order to deny claim of release of vehicle - Further, it is of no use to keep the seized vehicle in the police station for a long period resulting in its natural decay on account of weather conditions - Release of truck ordered - Penal Code, 1860 - s.451.		
<i>Multani Hanifbhai Kalubhai v. State of Gujarat & Anr.</i>	648
GUJARAT ANIMAL PRESERVATION (AMENDMENT) ACT, 2011:		
ss.6B(3) and 6A(3).		

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(See under: Gujarat Animal Preservation Act, 1954)	648
IDENTIFICATION/TEST IDENTIFICATION PARADE: TIP.		
(See under: Evidence Act, 1872; and Penal Code, 1860)	....	1172
INCOME TAX ACT, 1961:		
s.32(1) - Depreciation - On the vehicle - Purchased and financed by assessee but registered in the name of third parties i.e. lessees - Claim by assessee for depreciation at normal rate as well as on higher rate - Entitlement - Held: As per s.32, the asset must be 'owned' by assessee and 'used for the purpose of the business' - In the facts of the case, assessee as a lessor was owner of the vehicles, and also used them in the course of business i.e. the business running on hire - No inference can be drawn from registration certificate as to ownership of legal title of vehicle - Therefore, assessee was entitled to depreciation at normal rate as well as higher rate - Motor Vehicles Act, 1988 - ss.2(30) and 51.		
<i>M/s I.C.D.S. Ltd. v. Commissioner of Income Tax, Mysore & Anr.</i>	1082
INJUNCTION:		
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INTERIM ORDERS:		
(1) Judgment of Supreme Court - Decreeing suit for specific performance and directing execution of sale deed - Interim applications seeking impleadment and clarification of judgment - Held: In some applications facts on the basis of which		

modification/clarification sought, not brought to the notice of the court at the time of hearing of appeal or the judgment and in other applications facts and events forming basis for their claim occurred subsequent to the judgment - Therefore, applications are not maintainable - Applicants' endeavour to reopen the concluded issues and alteration of consequential directions not permissible - Parties have the option to seek remedies for their rights as may be open in law. (Also see under: Supreme Court Rules, 1966)

*Satya Jain (D) & Ors. v. Anis Ahmed
Rushdie (D) Tr. Lrs. & Ors.* 347

(2) Grant of interim order - Principles, the courts must follow in this regard, explained - Held: Interim relief granted to plaintiffs by appellate court, in the instant case is a mandatory direction to handover possession to plaintiffs - Grant of mandatory interim relief requires highest degree of satisfaction, much higher than a case involving grant of prohibitory injunction - When trial court was of the view that entitlement of plaintiffs to an order of interim mandatory injunction was in serious doubt, appellate court could not have interfered with the exercise of discretion by trial judge unless such exercise was found to be palpably incorrect or untenable - Interim Mandatory Injunction.

*Mohd. Mehtab Khan & Ors. v. Khushnuma
Ibrahim & Ors.* 359

INTERPRETATION OF STATUTES:

(1) *Ejusdem generis*.
(See under: SEBI (Substantial Acquisition of Shares And Takeovers) Regulations, 1997) 662

(2) *Ejusdem generis* - Applicability of.
(See under: Penal Code, 1860) 175

(3) (i) Legislation by reference.

(ii) Legislation by incorporation.
(See under: Recovery of Debts Due to
Banks and Financial Institutions Act, 1993) 269

INVESTIGATION:

(1) (i) Investigation - By State Police and by CBI - Permissibility - Held: Investigation was initiated by State Police and subsequently taken over by CBI, considering the volume and importance of offence - There is no infirmity in continuing the investigation by CBI in view of s. 5 (3) of Delhi Special Police Establishment Act - Delhi Special Police Establishment Act, 1946 - s. 5(3).

(ii) Defective investigation - Effect of - Held: Mere defect in investigation and lapse on the part of Investigating Officer cannot be a ground for acquittal - It is for the court to scrutinize the prosecution evidence de hors such lapses - Criminal trial.

(Also see under: Penal Code, 1860)

*Hema v. State, Thr. Inspector of Police,
Madras* 1

(2) Non-recovery of bullets/pellets.
(See under: Penal Code, 1860) 175

(3) (See under: Narcotic Drugs and
Psychotropic Substances Act, 1985) 770

JUDICIAL DEPREICATION:

(1) (See under: Code of Civil Procedure,
1908) 1146

(2) (See under: Co-operative Societies) 738

JUDICIAL NOTICE:

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JUDICIARY:

(1) Need to adopt mechanism to avoid inordinate delays in pending matters, emphasized.
(See under: Code of Civil Procedure, 1908) 1146

(2) Strictures against judicial officer - Propriety of - Held: Legal system acknowledges fallibility of Judges, and provides for appeals and revisions - Remarks/observations and strictures against judicial officers should be avoided, particularly, when the officer has no occasion to put forth his reasonings - In the instant case, in view of the facts, strictures against the judicial officer not justified.

Awani Kumar Upadhyay v. Hon'ble High Court of Judicature at Allahabad and Ors. 416

JURISDICTION:

(See under: Code of Criminal Procedure, 1973) 935

KARNATAKA LOKAYUKTA ACT, 1984:

(i) s.3(2)(a) and (b) - Appointment of Lokayukta/Upa Lokayukta - Nature and procedure to be followed - Requirement of 'consultation' in the context of appointment process - Meaning of - Held: Governor can appoint Lokayukta or Upa Lokayukta only on the advice tendered by Chief Minister - Chief Minister is mandatorily required to consult Chief Justice of High Court and four other consultees - Consultation must be meaningful and effective - However, the advice tendered by Chief Minister will have primacy and not that of the consultees including the Chief Justice - On facts, Chief Minister erred in not consulting the

Chief Justice - Appointment of appellant was in violation of s.3(2)(b) since Chief Justice was not consulted nor was the name deliberated upon before advising or appointing him as Upa Lokayukta - Appellant has no authority to continue or hold the post of Upa Lokayukta.

(ii) s.3(2)(a) and (b) - Duties and functions of the Lokayukta/Upa Lokayukta - Nature of - Discussed.

Mr. Justice Chandrashekaraiah (Retd.) v. Janekere C. Krishna & Ors. etc. 987

LAND ACQUISITION ACT, 1894:

(1) ss. 4(1), 6, 48 and 36.
(See under: Constitution of India, 1950) 245

(2) s.48(1) - Acquisition de-notified - Single Judge of High Court set aside the de-notification - Order overturned by Division Bench - Held: While exercising extraordinary jurisdiction u/Art. 226 of the Constitution, single Judge came across incongruities in the proceedings of the Minister which resulted in issuance of de-notification - Order of single Judge in setting aside such a patent illegality cannot be held to be beyond the powers vested in Constitutional Court - Division Bench completely omitted to take note of relevant facts while interfering with order of single Judge - Order of single Judge restored - Constitution of India, 1950 - Art. 226.

Bangalore Development Authority v. M/s Vijaya Leasing Ltd. & Ors. 140

LEGISLATION:

(1) Legislative intent.
(See under: Madhya Pradesh Co-operative Societies Act, 1960) 738

(2) Need for legislation.

(See under: Air Force Act, 1950) 781

LIMITATION:

Limitation prescribed under CrPC - Observance of - Held: Law of limitation prescribed under Cr.P.C. must be observed, but in exceptional circumstances - The principle of condonation of delay is based on general rule of criminal justice system that 'a crime never dies'- Criminal court may condone delay in the interest of justice recording reasons for the same - Code of Criminal Procedure, 1973 - ss.468, 469, 472 and 473 - Delay - Condonation of.

Udai Shankar Awasthi v. State of U.P. & Anr. 935

LIMITATION ACT, 1963:

s. 15(5) - Limitation for filing suit - The period of absence of defendant from India has to be excluded while computing limitation for filing of suit - Suit in the instant case was filed well within time.

Satya Jain (D) Thr. Lrs. & Ors. v. Anis Ahmed Rushdie (D) Tr. Lrs. & Ors. 319

LOKAYUKTAS/UPLOKAYUKTAS:

(See under: Karnatak Lokayukta Act, 1984) 987

MADHYA PRADESH CO-OPERATIVE SOCIETIES ACT, 1960:

(1) (i) s.31(1), second and third provisos and s.31(2) r/w s.49(7A)(i), proviso - Supersession of Board of Directors of District Co-operative Bank - Without prior consultation with RBI - Held: In the instant case, order of supersession is not only in clear violation of second proviso to s.53(1), but also allegations raised in show cause notice are

deficiencies mostly relating to system and procedures and are of general nature and not grave enough to overthrow a democratically elected Board of Directors - Board of Directors was superseded illegally and, therefore, in view of proviso to s. 49(7A)(i), they need to be put back in office and allowed to continue for the period they were put out of office - Costs imposed on State Government and officer concerned - Legislature - Legislative intent.

(ii) s.31(1), second proviso - Expression 'previous consultation with the Reserve Bank' - Connotation of - Held: Previous consultation is a condition precedent before forming an opinion by Joint Registrar to supersede the Board of Directors - In addition to six propositions laid down in the case of *Indian Administrative Services (SCS) Association, U.P.*, one more proposition that may be added is that when the outcome of proposed action is to oust a democratically elected body, previous consultation with RBI is to be construed as mandatory.

State of M.P. and Others v. Sanjay Nagayach and Others 738

(2) s.78.
(See under: Constitution of India, 1950) 738

MAXIMS:

(1) *Audi alteram partem.*
(See under: Code of Criminal Procedure, 1973) 830

(2) *'Noscitur a sociis'*.
(See under: SEBI (Substantial Acquisition of Shares And Takeovers) Regulations,

1997) 662

(3) '*Nullum tempus out locus occurrit regi*' - Applicability.

Udai Shankar Awasthi v. State of U.P. & Anr. 935

(4) *Secundum allegata et probata.*
(See under: Evidence) 601

MOTOR VEHICLES ACT, 1988:

(1) s.2(30) - 'Owner' - Meaning - Applicability to general law - This provision is a deeming provision that creates a legal fiction of ownership in favour of lessee only for the purpose of the Act - It is not a statement of law on ownership in general.

(Also see under: Income Tax Act, 1961)

M/s I.C.D.S. Ltd. v. Commissioner of Income Tax, Mysore & Anr. 1082

(2) (i) s. 2(44) and 2(28) - Motor vehicle - 'Tractor', 'Dumper' - Held: Tractor is a motor vehicle in terms of definition u/ss 2(28) and 2(44) - Tractor which is used basically for agricultural purpose and a dumper used in the factory premises, can suitably be adapted for being used on the road, therefore, they will meet the requirement of definition of motor vehicle u/s 2(28).

(ii) s.2(28) - Motor vehicle - 'Jugaad' - Held: Is squarely covered under the definition of motor vehicle as specified u/s 2(28), since it is mechanically propelled and adapted for use on road and, therefore, other relevant provisions of the Act/rules are applicable - Statutory authorities must ensure that `Jugaad' can be plied only after meeting requirements of the Act - Government of

India (Ministry of Shipping, Road Transport and Highways) Circular dated 26.7.2007, clarifying that 'Jugaad' is a vehicle u/s 2(28).

Chairman, Rajasthan State Road Transport Corporation & Ors. v. Smt. Santosh & Ors. 720

(3) (i) s.166 - Fatal accident - Compensation - Computation of - Deductions - Held: Provident Fund, Pension, Insurance, receivable by heirs on account of victim's death will not come within the periphery of the Act to be termed as 'pecuniary advantage' liable for deduction.

(ii) Compassionate appointment -Deductions towards 'pecuniary advantage' - Held: Compassionate appointment cannot be termed as 'pecuniary advantage' and any amount received on such appointment is not liable for deduction for determining the compensation.

(iii) Deduction towards income-tax - If annual income comes within taxable range, income tax is required to be deducted for determining actual salary of deceased and presumption would be that employer has deducted the tax at source from employee's salary - In case of income of a non-salaried victim, claimant is required to prove that deceased had paid income tax and no further tax is required to be deducted from the income.

(iv) Compensation - Multiplier - Increase towards future income - Held: Deceased being a Government servant and 28½ years of age at the time of death, his pay would have doubled if he would have continued in service till the date of

retirement - Therefore, 100% increase in future income of deceased should have been allowed by Tribunal and High Court - Multiplier of 17 would be applied.

(v) s.166 - Fatal accident - Amounts towards loss of consortium, loss of estate, loss of love and affection for daughter, loss of love and affection for widow and mother and funeral expenses awarded.

Vimal kanwar & Ors. v. Kishore Dan & Ors. 223

MONOPOLIES AND RESTRICTIVE TRADE PRACTICES ACT, 1969:

(See under: Competition Law) 659

NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES ACT, 1985:

(1) ss. 18 and 50 - Seizure of contraband from tool box of scooter of accused - Conviction and sentence of 10 years RI and fine of Rs. 1 lakh - Affirmed by High Court - Held: In the instant case, non-examination of independent witnesses does not affect prosecution case - Evidence of official witnesses is reliable and absolutely trustworthy and court can act upon the same - In case of search of vehicle, s.50 is not attracted - Appeal having been filed in 1996, the 2001 amendment regarding determination of commercial or non-commercial quantity has no relevance - Conviction and sentence upheld - Evidence - Non-examination of independent witnesses - Investigation - Notification SO No. 1055(E) dated 19.10.2001.

Kashmiri Lal v. State of Haryana 770

(2) s.32-A - Sentence awarded under the Act, not to be suspended, nor any remission/commutation

to be ordered - Questions (i) Whether s.32-A is violative of Arts. 72 and 161 of Constitution; and (ii) whether s.32-A is violative of Arts 14 and 21 of the Constitution, inasmuch as the same abrogates the rights of a convict under the Act to be granted remission/commutation, etc. - Referred to larger Bench - Constitution of India, 1950 - Arts. 14, 21, 72 and 161.

Krishnan & Ors. v. State of Haryana & Ors. 254

(3) (i) Search and seizure - Reliance placed only on the testimony of official witnesses / police officials - Non-examination of independent witnesses - Effect - Held: There is no absolute rule that police officers cannot be cited as witnesses and their depositions should be treated with suspect - In the case at hand, evidence of Sub Inspector was supported by Constable, as well as other witnesses - Evidence of police officials being absolutely unimpeachable, no reason to hold that non-examination of independent witnesses affected the prosecution case.

(ii) s.50 - Applicability of - Held: On facts, 32 bags of poppy straw powder weighing 64 Kgs. had been seized from two bags belonging to accused-appellant - There was no seizure from the person of appellant - Therefore s.50 was not attracted and consequently compliance with s.50 was not required in the facts and circumstances of the case.

Ram Swaroop v. State (Govt. NCT) of Delhi 791

NATURAL JUSTICE:

(1) Audi alteram partem.

(See under: Code of Criminal Procedure, 1973) 830

(2) Personal hearing.

(See under: SEBI (Substantial Acquisition of Shares And Takeovers) Regulations, 1997) 662

NAVY ACT, 1957:

s.151.

(See under: Air Force Act, 1950) 781

ORISSA EXCISE RULES, 1965:

r.34(1) proviso - Grant of IMFL licence - By relaxing the rules - Challenged - High Court quashed the grant of licence - Held: It is evident that every authority was aware of the restrictions on the distance from the preferred site and recommended for relaxation - Non-mentioning of rule does not tantamount to non-passing of an order - Thus, order of granting licence was in consonance with proviso to r.34(1) - Therefore, it cannot be said that there was no order relaxing the rules.

Ropan Sahoo & Another v. Ananda Kumar Sharma & Others 1129

PENAL CODE, 1860:

(1) s.57 - Life imprisonment - Meaning and effect of - Remission - Entitlement to - Held: Once a person is sentenced to undergo life imprisonment unless imprisonment for life is commuted by the competent authority, he has to undergo imprisonment for the whole of his life - s.57 does not, in any way, limit the punishment of imprisonment for life to a term of 20 years - In absence of subsequent order of remission by

competent Government, life convict cannot be released - Neither s.57 IPC nor Explanation to s.61 of W. B. Act lays down that a life convict has to be released after completion of 20 years - On facts, if the State Government taking into consideration various aspects refused to grant remission of the whole period then the petitioner cannot take advantage of the Explanation and of even s.57 IPC and seek for pre-mature release - West Bengal Correctional Services Act, 1992 - ss. 2(c) and 61, Explanation - Code of Criminal Procedure, 1973 - s.401.

(Also see under: Contempt of Court)

Life Convict Bengal @ Khoka @ Prasanta Sen v. B.K. Srivastava & Ors. 392

(2) ss. 120-B and 420 r/w. ss. 511, 465 and 471 - Criminal conspiracy to cheat Passport Office, to obtain passports on the basis of ante-dated passport applications - Conviction by courts below - Held: Prosecution proved its case - Supreme Court not to interfere with concurrent findings of facts except where there is serious infirmity in appreciation of evidence, and findings are perverse - Conviction confirmed - However, in view of the fact that accused has a small child, sentence reduced to six months from two years - Constitution of India, 1950 - Art. 136.

Hema v. State, thr. Inspector of Police, Madras 1

(3) (i) ss. 147, 148, 302/149 and 307/149 - Group of 15 accused opened fire on complainant party causing death of two and injuries to others - Conviction by courts below - Held: There is ample evidence to support prosecution case that accused

came with fire arms and opened fire on complainant party - It is an undisputed fact that two persons died of fire-arm injuries and all the injuries suffered by others were also fire-arm injuries - In the circumstances, non-detection of pellets or bullets will not be of any consequence - Conviction and sentence upheld - Code of Criminal Procedure, 1973 - Investigation - Non-recovery of bullets/pellets - Criminal law - Motive.

(ii) s.141 r/w ss.40, 144 and 149 - "Other offence" occurring in Clause 'Third' of s.141 - Connotation of - Held: s.40 makes it clear that for all offences punishable under IPC, the main clause of s.40 would straight away apply in which event the expression "other offence" used in s.141 'Third', will have to be construed as any offence for which punishment is prescribed under IPC - Principle of ejusdem generis is not applicable - Interpretation of statutes - Ejusdem generis.

(Also see under: Code of Criminal Procedure, 1973)

Manga @ Man Singh v. State of Uttarakhand 175

(4) s.302 - Double murder - Death sentence commuted to imprisonment for life.

(See under: Code of Criminal Procedure, 1973) 90

(5) s.302 - Murder of wife by husband - Circumstantial evidence - Conviction and sentence of life imprisonment awarded by courts below - Upheld - Principles, including the last seen theory, to be applied while convicting the accused on the basis of circumstantial evidence and the issues

pertaining to number of witnesses to be examined, discrepancies in depositions, evidence of hostile witness, police official as a witness, motive and explanation of accused u/s 313 CrPC, discussed - Criminal law - Motive - Evidence - Circumstantial evidence - Last seen theory - Evidence of hostile witness - Evidence of police witness - Discrepancies in depositions.

Rohtash Kumar v. State of Haryana 884

(6) s.302/34 - Murder - Circumstantial evidence - Conviction and life sentence awarded by courts below - Held: The circumstances clearly establish that prosecution has proved the guilt of accused and the circumstances are conclusive in nature to exclude every hypothesis but the one proposed to be proved - The chain of evidence is absolutely complete - Conviction and sentence upheld - Criminal law - Motive - Evidence Act, 1872 - s.27 - Code of Criminal Procedure, 1973 - s.313.

Rumi Bora Dutta v. State of Assam 801

(7) ss.302/34 and 404/34 - Conviction and sentence of life imprisonment - Held: Evidence of sole eye-witness is cogent and trust worthy and has been corroborated by medical evidence and proven by recoveries - Minor discrepancies in evidence of other witnesses cannot be termed even as minor contradictions - Conviction and sentence upheld - Evidence.

Kusti Mallaiah v. The State of Andhra Pradesh 815

(8) s.302 r/w s.120B - Murder - Criminal conspiracy - Circumstantial evidence -

Dismembered parts of victim's body recovered from a lake - Conviction of appellant - Held: Justified - Motive stood proved - Victim last seen with appellant and co-accused - Recovery of chopper at the behest of appellant - Post-mortem report established that dismemberment of parts of the body was possible by using a weapon like chopper - Victim's skull recovered on basis of disclosure statement of appellant - Use of vehicle in the crime also stood proved - Appellant clearly involved in conspiracy to eliminate the deceased - Prosecution proved its case beyond reasonable doubt.

(Also see under: Code of Criminal Procedure, 1973)

R. Shaji v. State of Kerala 1172

(9) ss. 302/149,148 and 323/149 - Death of two persons and injuries to others as a result of attack by accused persons - Held: Conviction of four of the appellants who have been named in FIR and attributed specific role and the fifth appellant who though not named in FIR but attributed specific role and also stated in his statement u/s.313 about his presence at the place of occurrence and participation, upheld - Remaining appellants acquitted on benefit of doubt - Code of Criminal Procedure,1973 - s.313.

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(10) ss.302, 171, 201, 365 and 420 - Prosecution - Circumstantial evidence - *Corpus delicti* not recovered - Conviction by trial court u/ss. 302, 171, 201, 364 and 420 IPC - High Court acquitted

the accused u/s.302 while upheld the conviction u/ss, 171, 201 and 420 and further altered the conviction u/s.364 to that u/s.365 - Appeal - Notice as to why order of acquittal u/s.302 be not set aside - Plea of accused to withdraw his appeal rejected - Held: Conviction u/ss. 171, 201, 420 and 365 upheld - Acquittal of accused u/s.302 is correct since charge of murder not proved beyond reasonable doubt as it was not proved that the deceased met a homicidal death - Circumstances of the case also did not form a complete chain as to leave no option except to hold that accused alone was guilty of the offences - Evidence - Circumstantial Evidence.

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(11) (i) s.304-B, s.306 r/w s.498-A - 'Cruelty' - Abetment of suicide - Death of bride in her matrimonial home - Conviction and sentence of 7 yrs. RI u/s 304-B by courts below - Held: Evidence of witnesses shows that they have only made a bald statement that accused persons were not satisfied with the dowry and were asking the bride to bring the stated amount - Thus, the finding of courts below that there was demand of dowry and harassment pertained to such a demand cannot be countenanced - However, it has come in evidence that there was ill-treatment by mother-in-law and husband - This aspect has been established beyond doubt - It is a case where the bride was totally insensitively treated with cruelty and harassed because of which she put an end to her life - Therefore, conviction u/s. 304-B converted to one u/s. 306 - Thus, basic ingredients of offence u/s 306 have been established by

prosecution - Accordingly, conviction u/s. 304-B is converted to that u/s. 306 - As accused has spent almost five years in custody, sentence is limited to period already undergone - Code of Criminal Procedure, 1973 - s.313.

(ii) s.304-B, s.306 r/w s.498-A - Held: Though charge has not been framed u/s 306 yet, it is evident that accused were aware that they were facing a charge u/s 304B which related not to administration of poison but to consumption of poison by deceased because of demand of dowry and harassment - It is major offence in comparison to s.306 which deals with abetment to suicide by a bride in the context of clause (a) of s. 498A. (Also see under: Criminal Trial)

Gurnaib Singh v. State of Punjab 563

(12) ss. 304-B and 498A - Death of married woman - Conviction of appellant-husband u/ ss.304B and 498A - Held: Not justified - Demand, if at all made by appellant on the deceased for purchasing a computer to start a business six months after the marriage, was not in connection with the marriage and was not really a 'dowry demand' within the meaning of s.2 of Dowry Prohibition Act - In any case, prosecution witnesses made general allegations of harassment by appellant towards the deceased and did not bring in evidence any specific acts of cruelty or harassment by appellant on deceased - On the other hand, from the evidence of appellant, it is clear that the deceased wrote the chit according to her free will saying that nobody was responsible for her death and that her parents

and family members had harassed her husband and she was taking the step as she was fed up with her life because of the quarrels that were taking place - Since the prosecution was not able to prove beyond reasonable doubt ingredient of harassment or cruelty, neither of the offences u/ ss.498A and 304B, have been made out - Dowry Prohibition Act, 1961 - s.2.

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(13) s.376(2)(f) and 302 - Rape and murder of minor girl - Circumstantial evidence - Appreciation of - Standard of proof - Expressions 'may be' and 'must be' - Connotation of - Held: Suspicion, however grave, cannot take the place of proof - Large difference between something that 'may be' proved, and something that 'will be proved' - Court must draw an inference with respect to whether the chain of circumstances is complete, and when the circumstances therein are collectively considered, the same must lead only to the irresistible conclusion that the accused alone is the perpetrator of the crime - In the instant case, it cannot be held that the circumstances clearly point towards the guilt of appellant - In a case of circumstantial evidence, burden of proof on prosecution is much greater - Conviction of appellant set aside - Evidence - Code of Criminal Procedure, 1973 - s. 313.

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(i) s.19(1) r/w ss. 7, 13(1)(d) and 2 - Public servant - Sanction for prosecution - Demand and acceptance of illegal gratification - Held: When there is an order of sanction by competent authority indicating application of mind, the same should not be lightly dealt with - Minor irregularities and flimsy technicalities are to be ignored and cannot be allowed to become tools in the hands of accused - Since trial court has also recorded its conclusions on merits dealing with every aspect and there has been no deliberation on merits by High Court, matter remanded to High Court.

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

(i) ss. 17 and 19 (19) of 1993 Act r/w ss.529(1)(c), proviso and 529-A of Companies Act - Recovery of debts of company by bank/financial institution - Claim of workmen - Held: Where a company is in liquidation, a statutory charge is created in favour of workmen in respect of their dues over security of every secured creditor and this charge is pari passu with that of secured creditor - Such statutory charge is to the extent of workmen's portion in relation to security held by secured creditor of debtor company - This position is equally applicable where assets of company have been sold in execution of recovery certificate obtained by bank or financial institution against debtor company when it was not in liquidation but

before the proceeds realised from such sale could be fully and finally disbursed, the company had gone into liquidation - Relevant date is the date of winding up order and not the date of sale - Where the sale of security has been effected in execution of recovery certificate issued by DRT, distribution of undisbursed proceeds has to be made by DRT alone in accordance with s. 529A of Companies Act and by no other forum or authority - Companies Act, 1956 - ss. 529(1)(c) proviso, and 529-A - Interpretation of Statutes - Legislation by reference - Legislation by incorporation.

(ii) s.19(19) of 1993 Act r/w ss.529-A and 529(1)(c), proviso of Companies Act - Company in liquidation - Debt of bank/financial institution and claim of workmen - Held: Once the company is in winding up, the only competent authority to determine workmen's dues and quantify workmen's portion is the liquidator, who has to act under supervision of company - s.19(19) does not clothe DRT with jurisdiction to determine workmen's claims against debtor company.

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SEBI (SUBSTANTIAL ACQUISITION OF SHARES AND TAKEOVERS) REGULATIONS, 1997:

(i) Regulation 27 r/w Regulation 10 - Order of SEBI rejecting request of appellant for withdrawal of offer to acquire equity shares - Challenged for denial of oral hearing - Held: Not being given an opportunity of oral hearing cannot always be equated to a situation, where no opportunity is given to a party to submit an explanation at all - The entire material on which the appellants were relying was placed before SEBI and on its consideration the offer of appellants was rejected - Therefore, it cannot be said that the appellants have been in any manner prejudiced by non-grant of opportunity of personal hearing - Administrative law - Natural justice - Personal hearing.

(ii) Regulation 27(1)(b)(c) and (d) - Rejection of request for withdrawal of offer to acquire equity shares - Held: Rejection of request made by appellants for withdrawal from the public offer or exemption under Regulation 27(1)(d) cannot be said to be an order causing adverse civil consequences - Appellants had made an informed business decision - Normally, the public offer once made can only be withdrawn in exceptional circumstances as indicated in Regulation 27(1) (b), (c) and (d) - SEBI as well as SAT have correctly concluded that withdrawal of the open offer in the given set of circumstances is neither in the interest of investors nor development of the securities

market - Interpretation of statutes - *Ejusdem generis* - Maxim 'noscitur a sociis'.

(iii) Regulation 27(1) - Order of SEBI rejecting request for withdrawal - Plea of delay in passing the order - Held: Plea was not raised before SAT - It cannot be permitted to be raised for the first time in the submissions made before Supreme Court - Even on merits, there was no delay on the part of SEBI in approving the draft letter of offer - Securities and Exchange Board of India Act, 1992 - s.15Z - Delay/Laches.

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SECURITIES AND EXCHANGE BOARD OF INDIA (CREDIT RATING AGENCIES) REGULATIONS, 1999:

Regulations 3, 4(e), 6, 7 and First Schedule, Form A - Application under Regulation 3 by company, to SEBI seeking registration as a Credit Rating Agency (CRA) - Rejected by SEBI for failure of the company to produce accounts of its promoter for two years after the date of application - Held: The information sought by SEBI with regard to additional two years was beyond the scope of the Regulations and Form A, therefore, without jurisdiction - However, SEBI was within its power

to ask for Audited Accounts for five years preceding the date of application - Net Worth Certificate for five years did not conform to the provisions contained in Regulation 4(e) as the certificate did not categorically state that it was based on the audited account - Therefore, under Regulation 6, it was duty of SEBI to have rejected the application - SEBI delayed the rejection of the application by granting time to remove the objections even beyond the permissible time - The company taking advantage of the liberty, provided the audited accounts for five years preceding the date of application - It has also produced audited accounts for subsequent two years - Since SEBI extended the time, impugned order of SAT not modified - Securities and Exchange Board of India Act, 1992.

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Rajasthan State Road Transport Corporation & Ors. v. Madu Giri (D) Thr Lrs. & Anr. 464

(2) (i) Posting (or transfer) beyond the cadre (or parent department) - Appellants selected and appointed as Assistant Surgeons - But posted against vacant posts of Senior/Junior House

Officers, at Government Medical College - Held: Though the posts of Assistant Surgeons were created by Health and Medical Education Department of State Government, the said department comprised of two independent Directorates, namely, the Directorate of Health Services and the Directorate of Medical Education - Appellants were substantively appointed to the Directorate of Health Services, and not in the Directorate of Medical Education - Their posting at Government Medical College was beyond their parent cadre and, therefore, by way of deputation - Reversion/repatriation of the appellants to their parent department, i.e., the Directorate of Health Services, affirmed.

(ii) Posting (or transfer) beyond the cadre (or parent department) - Consent of employee - Relevance and determination of - Held: An employee's posting (or transfer), against his will, to a department other than the one to which he is appointed, would be impermissible - But willingness of posting beyond the cadre (and/or parent department) need not be expressly sought and can be implied - In the instant case, consent of appellants was tacit and unquestionable.

Kavi Raj & Others v. State of J&K & Ors. 620

(3) (i) Promotion - On the basis of seniority-cum-merit - Case of appellant was considered alongwith other eligible candidates, but a person junior to him was promoted to the said post after considering his past five years' ACR and other records - Held: Where a promotion is to be given

on the principle of "seniority-cum-merit", such promotion will not automatically be granted on the basis of seniority alone - Like the instant case, a person lower in seniority list, can be promoted, ignoring the claim of senior person, who failed to achieve the benchmark i.e. minimum requisite merit - Furthermore, appellant did not approach the court with clean hands, clean mind and clean objective - He had faced criminal prosecution u/ ss.7 and 13(ii) of the PC Act and ss.467/468/471/120-B IPC, but did not disclose this fact either before High Court or Supreme Court - Claim of appellant for promotion therefore rightly rejected - Punjab Home Guard, Class-I Rules, 1988 - r.8.

(ii) Promotion - "Seniority-cum-merit" and "merit-cum-seniority" - Distinction between - Held: The principles of "seniority-cum-merit" and "merit-cum-seniority" are conceptually different - In the case of former, there is greater emphasis upon seniority even though the same is not the deciding factor, while in the case of latter, merit is the deciding factor.

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(4) (i) Selection - Panel not indicating preference - Effect of - Post of Director General, All India Radio - Held: The panel sent earlier does not specifically state that the recommendations were in order of merit or in order of preference as determined by the Board - The subsequent recommendation was made in order of preference by deliberation - Even after three members were substituted, it would not have made any difference as majority of the earlier Members were there and

they had given preference in favour of fourth respondent - Therefore, there is no flaw in the three Members participating in the short-listing of the names and giving preference - There is no element of legal malice.

(ii) Selection - Recommendation in order of preference - The term 'preference' - Connotation of.

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(ii) Suit for specific performance - Test of readiness and willingness of plaintiff - Held: No straitjacket formula can be laid down on the basis

of which the readiness and willingness of plaintiff is to be judged - It would depend on overall conduct of plaintiff in the light of conduct of defendant.

(Also see under: Specific Relief Act, 1963)

Satya Jain (D) Thr. Lrs. & Ors. v. Anis Ahmed Rushdie (D) Tr. Lrs. & Ors. 319

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(1) s. 6 - Scope of - Held: Proceeding u/s. 6 is summary proceeding to afford immediate remedy in cases of illegal dispossession - Questions of title or better rights of possession do not arise for adjudication.

Mohd. Mehtab Khan & Ors. v. Khushnuma Ibrahim & Ors. 359

(2) (i) s. 20 - Parameters for exercise of discretion under - Held : Cannot be entrapped within any precise expression of language and the contours thereof would depend on the facts and circumstances of each case - Discretion to direct specific performance of an agreement and that too after lapse of a long period, has to be exercised on sound, reasonable, rational and acceptable principles - The ultimate guiding test would be the principles of fairness and reasonableness - Efflux of time and escalation of price of property, by itself, cannot be a valid ground to deny the relief of specific performance.

(ii) Principle of 'Business Efficacy' - Applicability of - The test of business efficacy requires that a term can only be implied if it is necessary to give business efficacy to the contract to avoid such a failure of consideration that the parties cannot as

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(Also see under: Specific Performance)

Satya Jain (D) Thr. Lrs. & Ors. v. Anis Ahmed Rushdie (D) Tr. Lrs. & Ors. 319

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legitimate basis for any modification even if interim applications are construed to be applications for review - The direction in the judgment to execute the sale deed at the market price came to be recorded as per "offer" made on behalf of appellants/plaintiffs and there was no material available in this regard - It is, therefore, clear that the Court did not intend to lay down any law of general application while issuing the said direction - Typographical errors corrected - It is open to parties to avail remedies against determination of market price which would be done by trial court - Review.

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1. Hon'ble Shri Altamas Kabir, Chief Justice of India
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4. Hon'ble Mr. Justice G.S. Singhvi
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6. Hon'ble Mr. Justice R.M. Lodha
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28. Hon'ble Mr. Justice Pinaki Chandra Ghose
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THE
SUPREME COURT REPORTS

Containing Cases Determined by the Supreme Court of India

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