



PRECEDENT PRISM
BY VAKEEL KHOJ



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A monthly compendium of significant
Supreme Court decisions by
Vakeel Khoj

A B O U T U S



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Healthcare Scope Clarified: SC Includes Stem Cell Banking, Exempts from Tax

Stemcyte India Therapeutics Ltd. v. Commissioner of Central Excise and Service Tax, 2025 INSC 841

Bench: *J.B. Pardiwala J, R. Mahadevan J*

FACTS OF THE CASE:

- **Parties**

Appellant: *Stemcyte India Therapeutics Pvt. Ltd.* (“Stemcyte”), a joint venture dealing in collection, processing, testing, and storage of umbilical-cord blood stem cells.

Respondent: *Commissioner of Central Excise & Service Tax, Ahmedabad-III.*

- **Timeline & Services**

- Services delivered between **1 July 2012 and 16 February 2014**.
- Stemcyte believed these healthcare services were exempt under **Notification No. 25/2012-ST (effective 20 June 2012)** and registered accordingly.

- **Departmental Response**

- Claimed exemption only applied **from 17 February 2014**, under **Notification No. 4/2014-ST**.
- Issued a **Show Cause Notice in July 2017**, demanding ₹2.07 crore in past service tax, interest, and penalties under **Sections 73, 77, and 78** of the Finance Act, 1994.

- **Stemcyte’s Stand**

- Deposited ₹40 lakh under protest.

- Claimed the services were exempt healthcare, acted in **good faith**, and regularly communicated with authorities, making SCN **time-barred**.

ISSUES BEFORE THE COURT:

1. Do stem cell banking services fall under the definition of “healthcare services” and were thus exempt from service tax during the dispute period?
2. Can the tax department use the 5year extended limitation (Section 73) to recover past service tax in absence of fraud or suppression?
3. Are penalties and interest under Sections 77 and 78 justified when Stemcyte acted in bona fide belief?

RELEVANT LEGAL PROVISIONS:

- **Section 65B(23), Finance Act, 1994:** Defines “healthcare services” (diagnosis, treatment, or care in recognised systems of medicine).
- **Notification 25/2012-ST (20 June 2012):** Exempts healthcare services provided by clinical establishments under **Entry 2**.
- **Notification 4/2014-ST (17 Feb 2014):** Clarifies an exemption for cord blood banks via **Entry 2A**.
- **Section 73(1) & Proviso:** Normal tax recovery limit = 1 year; extended up to 5 years only when **fraud, suppression, or intent to evade tax** is proved.
- **Sections 77 & 78:** Penal provisions for contraventions with or without intent to evade.

JUDGMENT:

1. Healthcare Services Classification

- The Court held that stem cell banking: preventive, diagnostic, therapeutic, and curative constitutes **healthcare services** under Entry 2 of Notification 25/2012ST. It falls within the recognized system of healthcare and was **exempt from service tax** even before 2014.

2. Clarificatory Nature of 2014 Notification

- Notification 4/2014-ST (Entry 2A) did **not create a new exemption**, but **clarified** that stem cell services were already covered. It is prospectively operative but **interprets earlier law in pending cases**.

3. Limitation Bar on SCN

- Since Stemcyte acted transparently, communicated with the department, disclosed operations, and paid under protest, the Court held no evidence of intent for evasion.
- Hence, the **5-year extension under Section 73** is inapplicable; SCN is **barred by time**.

4. Penalties and Interest Unjustified

- Stemcyte's bona fide actions and proactive disclosure negate any wilful intent or suppression.
- Therefore, penalties under Sections 77 and 78 are **unsustainable**.

5. Final Orders

- Impugned actions: tax demand, penalties, and interest, are **quashed** in entirety.
- ₹40 lakh deposit is **refunded within four weeks**.
- No costs awarded to either party.

RATIO DECIDENDI:

1. Liberal Interpretation of Exemption Notifications

Exemptions in publicwelfare- sectors like healthcare must be read broadly (*CCE v. Parle Exports*, 1989¹).

2. Preventive Healthcare Included

Services like stem cell banking, though preventive, fit squarely within “healthcare services” (*M. Satyanarayana Raju Trust*, 2017²).

3. Clarificatory Amendments Interpret Preexisting Law

If a notification explains earlier provisions without creating new obligations, it is clarificatory and affects pending cases.

4. Extended Limitation Requires Active Concealment

Only fraud, suppression, or intentional misstatement can justify a 5-year extension. Simple differences in interpretation or good faith belief **do not qualify** (*Padmini Products*³, *Chemphar Drugs*⁴, *Pushpam Pharmaceuticals*⁵).

¹ CCE, Bombay-I & Anr. vs. Parle Exports Pvt. Ltd., (1989) 1 SCC 345.

² M. Satyanarayana Raju Charitable Trust vs. U.O.I, 2017 SCC OnLine Hyd 168.

³ Padmini Products v. CCE, (1989) 4 SCC 275.

⁴ CCE v. Chemphar Drugs and Liniments, Hyderabad, (1989) 2 SCC 127.

⁵ Pushpam Pharmaceuticals Co. v. CCE, 1995 Supp (3) SCC 462.

5. Mens Rea Required for Penalties

Without dishonest intent, penalties are inappropriate for bona fide legal uncertainty.

Courts Must Compare Prosecution and Defence Statements in Case of Circumstantial Evidence:

Vaibhav v. State of Maharashtra, 2025 INSC 800

Bench: *B.V. Nagarathna J, S.C. Sharma J*

FACTS OF THE CASE:

1. The appellant (Sukhvinder Singh), a young first-year college student, was accused of murdering his friend (the deceased) by shooting him with his father's licensed pistol inside their home.
2. Post-incident, the appellant did not inform the police immediately. Instead, he cleaned the scene, removed the deceased's body, and attempted to restore the room to its original condition.
3. The prosecution case was based entirely on circumstantial evidence and alleged that the act was intentional and premeditated.
4. The appellant consistently maintained the defence of accidental firing, claiming the death occurred while the deceased was handling the pistol.
5. Despite this, the Trial Court and the Punjab & Haryana High Court convicted the appellant under:
 - Section 302 IPC (Murder),
 - Section 5 read with 25(1)(a) of the Arms Act, and
 - Section 201 IPC (Causing disappearance of evidence).

ISSUES BEFORE THE SUPREME COURT:

1. Whether the defence of accidental death was properly evaluated by the lower courts?
2. Whether the chain of circumstantial evidence was complete and consistent with the theory of guilt alone?
3. Whether absence of motive affects the reliability of the prosecution's version in a case based entirely on circumstantial evidence?
4. Whether the subsequent conduct of the accused (cleaning the scene, hiding the body) is sufficient to infer guilt for murder?

JUDGMENT:

The Supreme Court acquitted the appellant of charges under:

- Section 302 IPC (Murder), and

- Section 5 read with Section 25(1)(a) of the Arms Act (Possession and use of illegal weapon), but sustained the conviction under:
- Section 201 IPC for causing disappearance of evidence, sentencing him to the period already undergone.

The appeal was allowed partially and the impugned judgment of the High Court was set aside to the extent of murder and Arms Act conviction.

RATIO DECIDENDI:

1. Different Standards of Burden of Proof:

- Prosecution must prove its case beyond reasonable doubt.
- Accused, when raising a defence (e.g., accident), only needs to establish it on the preponderance of probabilities.
- The lower courts failed to apply this differential standard when ignoring the accidental death defence.

2. Failure to Test the Defence Version:

- The defence of accidental death was not evaluated adequately by the Trial Court and High Court.
- Courts are bound to weigh the probability of the defence theory in light of all facts and not reject it summarily.
- The appellant's version was plausible and consistent with medical evidence.

3. Role of Motive in Circumstantial Evidence Cases:

- Citing *Anwar Ali v. State of Himachal Pradesh (2020) 10 SCC 166*, and *Pannayar v. State of Tamil Nadu (2009) 9 SCC 152*, the Court reiterated:
 - Motive is not indispensable, but its complete absence in a case based purely on circumstantial evidence weighs in favour of the accused.
- In the present case:
 - Prosecution failed to establish any motive.
 - Even the deceased's father confirmed there was no animosity between the two.

4. Subsequent Conduct Not Sufficient for Murder Conviction:

- Cleaning up the crime scene and concealing the death was suspicious but not determinative of guilt for murder.
- The Court noted that such behaviour may be due to panic and immaturity, especially in the absence of motive and with no criminal background.

5. Circumstantial Evidence Must Be Conclusive:

- As per settled law in *Sharad Birdhichand Sarda v. State of Maharashtra*, (1984) 4 SCC 116, and reiterated in *State of U.P. v. Satish* (2005) 3 SCC 114, the chain of circumstantial evidence must:
 - Be complete,
 - Point only towards guilt, and
 - Be inconsistent with any other hypothesis, especially innocence.
- In this case, the evidence was not conclusive enough. There existed a reasonable alternate explanation, which should have resulted in benefit of doubt.

6. Doctrine of Benefit of Doubt:

- The Court emphasized the time-tested principle that when two views are possible:
 - The one favourable to the accused must prevail (relied on *Kali Ram v. State of Himachal Pradesh*, (1973) 2 SCC 808).

*"In cases based on circumstantial evidence, courts are not only required to scrutinise the version of the prosecution, but also to test it against the version offered by the defence. A conviction can be recorded only when the prosecution's case is proved beyond reasonable doubt, and the chain of circumstances is complete and points only to the guilt of the accused."*⁶

Appellate Court Cannot Enhance Sentence:

Nagarajan v. State of Tamil Nadu, 2025 INSC 802

Bench: *B.V. Nagarathna J, S.C. Sharma J*

FACTS OF THE CASE:

- The appellant was a neighbor of the deceased, Smt. Mariammal.
- On 11.07.2003, at night, he entered her room, hugged her, and attempted to outrage her modesty. He was scolded by the deceased's mother-in-law and fled.
- On the morning of 12.07.2003, Mariammal left home with her infant daughter and attempted to take her elder daughter from school but was stopped.

⁶ *State of U.P. v. Kishanpal*, (2008) 16 SCC 73

- Later, she consumed oleander seeds and administered poison to her infant, leading to both their deaths.
- FIR under Section 306 IPC was lodged.
- Charge-sheet was filed under Section 306 IPC, but the Trial Court altered the charges to Sections 354 (outraging modesty) and 448 IPC (trespass).
- The Trial Court acquitted him under Section 306 IPC, holding there was no direct abetment of suicide.
- He was convicted under Sections 354 and 448 IPC, sentenced to 3 years 1 month, and fined ₹25,000.
- The accused appealed to the High Court against this conviction.
- The High Court suo motu initiated criminal revision under Section 401 CrPC to examine the acquittal under Section 306 IPC.
- By its judgment dated 29.11.2021, the High Court convicted the accused under Section 306 IPC and enhanced the sentence to 5 years of rigorous imprisonment, along with sentence under Section 448 IPC.

ISSUES BEFORE THE SUPREME COURT:

1. Whether the High Court could invoke its suo motu revisional jurisdiction under Section 401 CrPC to convert an acquittal under Section 306 IPC into a conviction, in the absence of any appeal or revision by the State/victim/complainant?
2. Whether, in an appeal filed solely by the accused against conviction under Sections 354 and 448 IPC, the appellate court can enhance the sentence or convict the accused of additional charges like Section 306 IPC?

JUDGMENT:

The Supreme Court allowed the appeal in part, set aside the conviction under Section 306 IPC, and restored the Trial Court's conviction under Sections 354 and 448 IPC.

It held that:

- The High Court erred in invoking suo motu revision to convict the accused under Section 306 IPC, especially when neither the State nor any other party had filed an appeal or revision.
- In an appeal filed by the accused, the High Court could not enhance the sentence or convict on a more serious charge without violating the principles of natural justice and fair trial.
- The accused cannot be put in a worse position merely because he exercised his right of appeal.

RATIO DECIDENDI:

1. Section 386(b)(iii) CrPC:

In an appeal from conviction filed by the accused, the court may “*alter the nature or the extent, or the nature and extent, of the sentence, but not so as to enhance the same.*”

- The High Court cannot enhance sentence in an appeal filed by the accused alone.
- It also cannot convert an acquittal to conviction under revisional powers when no appeal/revision was filed by the State or complainant.

2. Section 401(3) CrPC:

“*Nothing in this section shall be deemed to authorise a High Court to convert a finding of acquittal into one of conviction.*”

- Revisional powers are limited. High Court cannot act as if it is hearing an appeal by the prosecution when none exists.

3. Doctrine of “No Reformatio in Peius” (cited with reference to *Jyoti Plastic Works Pvt. Ltd. v. Union of India*, 2020 Online Bom 2276):

- A litigant who appeals cannot be put in a worse position by the mere act of appealing.
- Fairness and equity prohibit worsening the situation of a party who exercises a statutory remedy.

4. Sachin v. State of Maharashtra, Criminal Appeal Nos. 2073–2075/2025 (relied upon by the Court):

- The appellate court in an appeal by the accused cannot exercise revisional jurisdiction to enhance sentence or convert acquittal into conviction.

5. Constitutional Principles:

- The right to appeal is a constitutional right of the accused.
 - An appeal is not just on the merits, but also on procedural lapses.
-

Limitation under 468 CrPC Begins from Date of Filing Complaint:

Ghanshyam Soni v. State (Govt. of NCT of Delhi), 2025 INSC 803

Bench: *B.V. Nagarathna J, S.C. Sharma J*

FACTS OF THE CASE:

1. Marriage & Parties:

- Marriage between the Appellant (husband) and Respondent No. 2 (wife) was solemnized on 28.02.1998 under Buddhist rites.
- Both were serving police officers (Sub-Inspectors in Delhi Police) at the time of marriage.

2. Allegations:

- Soon after marriage, wife alleged mental and physical cruelty by the husband and his family for insufficient dowry.
- Specific allegations include:
 - Demand of ₹1.5 lakhs, a car, and a separate house.
 - Assaults on 27.04.1999 and 06.12.1999.
 - A threat with a dagger on 04.09.1999.
 - Beaten and thrown out of matrimonial home on 08.09.1999.
 - No support during pregnancy or birth of child (daughter born on 27.04.2000).

3. Complaints & FIRs:

- First complaint: 08.09.1999 (PS Prasad Nagar)
- Second complaint: 06.12.1999 (PS Palam Airport) – withdrawn on 12.12.1999
- Final complaint: 03.07.2002 to DCP CAW Cell
- FIR No. 1098/2002 registered on 19.12.2002 (PS Malviya Nagar) under Sections 498A, 406, and 34 IPC.

4. Procedural History:

- Chargesheet filed: 27.07.2004 under Sections 498A & 34 IPC.
- Magistrate's Order (04.06.2008): Framed charges under Section 498A/34 IPC. Dropped 406 IPC.
- Sessions Court (04.10.2008): Discharged the husband, his mother, and five sisters, ruling:
 - The case was barred by limitation (Section 468 CrPC).
 - Allegations were vague and possibly false implication, considering the complainant was a police officer.

- High Court (01.04.2024): Reversed discharge, ruled:
 - Allegations prima facie show cruelty.
 - Being a police officer doesn't prevent a woman from being a victim.
- Supreme Court: Appellant challenged High Court's judgment and sought quashing of FIR under Article 142.

ISSUES BEFORE THE SUPREME COURT:

1. Whether the complaint filed on 03.07.2002 for alleged offences in 1999 was barred by limitation under Section 468 CrPC?
2. Whether the Magistrate could take cognizance on 27.04.2004 if the complaint was filed within the limitation period?
3. Whether the allegations in the FIR and material on record disclose a prima facie case under Section 498A IPC against the husband and family?
4. Whether the criminal proceedings should be quashed under Article 142 of the Constitution in the interest of justice?

JUDGMENT:

Findings of the Supreme Court:

1. On Limitation (Sections 468 & 473 CrPC):

- Complaint dated 03.07.2002 was filed within 3 years from last alleged incident on 06.12.1999.
- Held: For limitation under Section 468 CrPC, the relevant date is the date of filing complaint, not the date of taking cognizance.
- Therefore, no need for condonation under Section 473 CrPC.
- Relied on:
 - *Bharat Damodar Kale v. State of A.P.*, (2003) 8 SCC 559
 - *Kamatchi v. Lakshmi Narayanan*, (2020) 14 SCC 179

2. On Merits of the Allegations (Section 498A IPC):

- Allegations were vague, generic, and unsupported by any medical or documentary evidence.
- No specific date/time/place for alleged acts.
- Roping in five sisters-in-law, mother-in-law, and even a tailor without detailed evidence indicates possible misuse.
- No addition of Sections 3 & 4 of Dowry Prohibition Act, showing weak case.

3. On Role of Complainant as a Police Officer:

- Sessions Court wrongly held that being a police officer negated possibility of cruelty.
- High Court rightly rejected this view, but failed to assess the material evidence properly.

4. On Quashing FIR under Article 142:

- The matrimonial relationship had ended, and divorce decree had attained finality.
- Forcing parties into criminal trial after 25 years would be unjust and oppressive.
- FIR and chargesheet quashed in entirety.

RATIO DECIDENDI:

1. For computing limitation under Section 468 CrPC, the date of filing of complaint is the relevant date, not the date of taking cognizance by the Magistrate.

"Once a complainant initiates prosecution within the limitation period, he cannot be penalised for delay in court's action."

— *Bharat Damodar Kale v. State of A.P.*, (2003)

2. Mere vague and omnibus allegations without specific dates or evidence are insufficient to frame charges under Section 498A IPC, especially when extended family members are indiscriminately named.

"Courts must be cautious in matrimonial disputes and avoid proceeding against distant relatives without specific instances."

— *K. Subba Rao v. State of Telangana*, (2018)

3. Being a police officer does not make a woman immune from domestic cruelty, but courts must still apply strict scrutiny to allegations before allowing trial.

4. The power under Article 142 may be invoked to quash criminal proceedings where continuing prosecution would amount to abuse of process and serve no purpose of justice.

FINAL ORDER:

- FIR No. 1098/2002 dated 19.12.2002 and Chargesheet dated 27.04.2004 — QUASHED.
 - Both criminal appeals allowed.
 - Supreme Court clarified that the High Court's ruling on limitation was correct, but failed to appreciate the insufficiency of material on record.
-

Threat of life or injury for extortion does not need transfer of property

M/S. Balaji Traders v The State of U.P., 2025 INSC 806

Bench: *Sanjay Karol J, Manoj Misra J*

FACTS OF THE CASE:

- The complainant, Prof. Manoj Kumar Agrawal, is the proprietor of *M/s. Balaji Traders*, a business engaged in betel nut leaves.
- The accused, Sanjay Gupta, allegedly started another business using the same name, leading to pending trademark and copyright litigation between the parties.
- On 22 May 2022, while the complainant was returning home, the accused along with three unknown persons (armed with rifles) allegedly:
 - Stopped and threatened him to shut down his business,
 - Demanded ₹5 lakh per month to allow him to continue business,
 - Physically assaulted him and attempted to kidnap him.
- After the police failed to register an FIR, the complainant filed a complaint under Section 200 CrPC before the Trial Court.
- The Trial Court, on examining the complaint and witness statements, issued a summons under Section 387 IPC (Putting person in fear of death or grievous hurt, in order to commit extortion).
- The accused challenged this before the High Court under Section 482 CrPC, seeking quashing of the summoning order.

ISSUES BEFORE THE SUPREME COURT:

1. Whether the High Court was correct in quashing the summoning order and proceedings under Section 387 IPC on the ground that no property or money was delivered to the accused?
2. Whether actual delivery of property/valuable security is a necessary condition to constitute an offence under Section 387 IPC?
3. What is the correct interpretation of Section 387 IPC, and how does it differ from Sections 383 and 384 IPC?

JUDGMENT:

- The Supreme Court allowed the appeal, set aside the High Court's quashing order dated 28 June 2024, and restored the criminal complaint to the file of the Trial Court.
- It held that the High Court misapplied the law by treating Section 387 IPC as if it required actual extortion (i.e., delivery of money or property).
- The Court emphasized that Section 387 IPC punishes the act of putting or attempting to put someone in fear of death or grievous hurt in order to extort, regardless of whether any property was actually delivered.
- The Trial Court's summoning order was justified, as the complaint clearly disclosed prima facie ingredients of Section 387 IPC.

RATIO DECIDENDI

- The offence under Section 387 IPC is distinct from Section 383 IPC (extortion) and Section 386 IPC (aggravated extortion).
- Section 387 IPC criminalizes the attempt to put a person in fear of death or grievous hurt with the intention to commit extortion; it is not dependent on the completion of extortion.
- Delivery of property is *not* a sine qua non under Section 387 IPC.
- The High Court erred by importing requirements of Section 383 IPC (which requires actual delivery of property) into Section 387 IPC, contrary to the plain language and legislative intent.
- The Supreme Court reaffirmed the principle that penal statutes must be interpreted strictly, but also according to the plain meaning of the text, without reading in elements not expressly included by the Legislature.

"When the Legislature has created two separate offences with distinct ingredients and punishments, then assigning the essential ingredient of one to another is not a correct approach."

Preventive detention not an alternative for seeking cancellation of bail

Dhanya M v. State of Kerala, 2025 INSC 809

Bench: Sanjay Karol J, Manmohan J

FACTS OF THE CASE:

1. Detenu: Rajesh, husband of the appellant, ran a registered finance firm called *Rithika Finance*.
2. Detention Order: Passed by District Magistrate, Palakkad, on 20 June 2024, under Section 3(1) of the *Kerala Anti-Social Activities (Prevention) Act, 2007* [KAA(P)A], on recommendation by the Palakkad District Police (dated 29 May 2024).
3. Grounds of Detention: Rajesh was labeled a “notorious goonda” and alleged to be a threat to public order based on the following cases:
 - Crime No.17/2020: Under Section 17 of Kerala Money Lenders Act, 1958 and Section 3, 9(1)(a) of Kerala Prohibition of Charging Exorbitant Interest Act, 2012.
 - Crime No.220/2022 and No.221/2022: Same acts, including IPC Sections 294(b), 506(I).
 - Crime No.401/2024: Sections 341, 323, 324, 326 IPC; SC/ST (Prevention of Atrocities) Act, 1989; Money Lending and Exorbitant Interest Acts.
4. Writ Petition: The appellant (wife) challenged the detention before the Kerala High Court, seeking a writ of habeas corpus, alleging illegal detention. The High Court dismissed the petition on 4 September 2024, holding that:
 - The detaining authority need not examine the likelihood of acquittal.
 - The High Court cannot sit in appeal over such administrative decisions.
 - Procedural safeguards were complied with.
5. Supreme Court Appeal: The appellant appealed, arguing that:
 - The detenu was already on bail in all pending cases.
 - No bail conditions had been violated.

- The order of preventive detention was excessive and unjustified.
6. During the pendency of the appeal, the detenu was released by the Supreme Court on 10 December 2024, upon expiry of the statutory 6-month detention period under Section 12 of the Act.

ISSUES BEFORE THE SUPREME COURT:

1. Whether the preventive detention of the detenu under the Kerala Anti-Social Activities (Prevention) Act, 2007 was in accordance with law?
2. Whether the facts disclosed in the detention order establish a situation of “public order” as required under Section 2(j) of the Act, or merely a “law and order” situation?
3. Whether bail granted in pending cases nullifies the necessity of preventive detention in this instance?
4. Whether the detention order complies with constitutional protections under Articles 21 and 22 of the Constitution of India?

JUDGMENT:

The Supreme Court **allowed the appeal, quashed the detention order dated 20 June 2024, and set aside the High Court’s judgment dated 4 September 2024.** Key observations:

1. **No Justification for Public Order Disturbance:** The alleged acts of the detenu did not rise to the level of disturbing “public order”. These were instances of individual law violations, not affecting societal peace.
2. **No Bail Violation Cited:** No material or application by the State was placed on record to show the detenu had violated any bail condition. Hence, preventive detention was disproportionate and unjustified.
3. **Extraordinary Powers Must Be Used Sparingly:** Preventive detention is a severe measure, constitutional under **Article 22(3)(b)** but only valid if it strictly complies with **Article 21** and procedural safeguards under the relevant statute.
4. **State Should Have Moved for Bail Cancellation:** As held in *Ameena Begum*⁷ and *SK Nazneen*⁸, the State should resort to regular criminal law and seek **cancellation of bail**, rather than invoking **preventive detention**, unless the situation truly warrants it.

⁷ (2023) 9 SCC 587.

⁸ (2023) 9 SCC 633.

RATIO DECIDENDI:

The **central legal reasoning** of the Court is as follows:

1. **Preventive Detention ≠ Substitute for Criminal Law Remedies:** Preventive detention cannot be used to overcome judicial grant of bail unless there is credible evidence of imminent threat to public order.
2. **Distinction Between “Law and Order” vs. “Public Order”:**
 - **Law and order** refers to violations affecting individuals.
 - **Public order** relates to societal disruption and threat to peace in the community.
 - Detention under the Act is justified **only if public order is affected**.
3. **Failure to Demonstrate Procedural & Substantive Justification:**
 - The detaining authority did **not provide reasons** how the alleged acts of Rajesh disturbed public order.
 - No violation of Section 7 (grounds of detention to be served) was established, but the **substantive basis of detention was flawed**.
4. **Preventive Detention Cannot Bypass Judicial Process:**
 - The Court reaffirmed that **detention cannot be used as a backdoor mechanism** to override bail orders, unless the **four corners of the statute and Article 21 are satisfied**.

“The law of preventive detention should not be used merely to clip the wings of an accused who is involved in a criminal prosecution.”

— Justice E.S. Venkataramiah in *Vijay Narain Singh v. State of Bihar*⁹

SC Upholds Validity of Minimum Service Clause in PSU Appointment: No Violation of Contract Act or Fundamental Rights

Vijaya Bank v. Prashant B. Narnaware, 2025 INSC 691

Bench: *P.S. Narasimha J, Joymalya Bagchi J*

⁹ (1984) 3 SCC 14.

FACTS OF THE CASE:

- Respondent Prashant B. Narnaware joined Vijaya Bank in 1999 as a Probationary Assistant Manager, confirmed in 2001, later promoted to Middle Management Grade (MMG) II.
- In 2006, Vijaya Bank issued a recruitment notification inviting applications for officers in various grades.
- Clause 9(w) of the notification required selected candidates to execute an indemnity bond of ₹2 lakhs, payable if they left the bank before completing 3 years of service.
- Respondent applied for and was selected as Senior Manager (Cost Accountant), MMG-III, and joined on 28-09-2007.
- As per Clause 11(k) of his appointment letter, he was required to serve a minimum term of 3 years or pay ₹2 lakhs as liquidated damages for early resignation. He voluntarily resigned from his previous post and executed the required bond.
- On 17-07-2009, before completing 3 years, the respondent resigned to join another bank. He paid ₹2 lakhs under protest.
- He filed a writ petition before the Karnataka High Court, challenging Clause 9(w) and Clause 11(k) as:
 - Violative of Articles 14 and 19(1)(g) of the Constitution, and
 - Void under Sections 23 and 27 of the Indian Contract Act, 1872.
- The Single Judge allowed the writ. The Division Bench upheld it. Vijaya Bank appealed to the Supreme Court.

ISSUES BEFORE THE SUPREME COURT:

1. **Whether Clause 11(k)** of the appointment letter imposing a minimum service period or liquidated damages is **void under Section 27** of the Indian Contract Act, 1872 as a **restraint of trade**.
2. Whether the impugned clause is **opposed to public policy under Section 23** of the Contract Act and **violative of Articles 14 and 19(1)(g)** of the Constitution.

JUDGMENT:

Held: The appeal was allowed. The Supreme Court upheld the validity of Clause 11(k) and rejected the respondent's challenge.

- Clause 11(k) is not hit by Section 27. It is a covenant applicable during the term of employment, not post-termination.
- It does not restrain future employment but seeks to enforce a minimum service commitment.
- Clause 11(k) is not violative of public policy under Section 23. It is a reasonable term justified by the need to curb attrition and improve efficiency in public sector undertakings.
- Articles 14 and 19(1)(g) are not violated, as the clause is neither arbitrary, nor does it unreasonably restrict the freedom of occupation.

RATIO DECIDENDI:

1. A restrictive covenant operative during the subsistence of employment does not fall under the ambit of restraint of trade under Section 27, unless shown to be unconscionable or harsh.
2. The onset of liberalisation and competitive banking environment justifies reasonable restrictions aimed at retention of skilled manpower in PSUs.
3. A clause that provides for liquidated damages for breach of minimum service period is not ex facie unconscionable, especially when the employee is at a senior managerial level and voluntarily agrees to such terms.

“Efficiency in public administration cannot be built on a revolving door of personnel. Reasonable contractual discipline, when voluntarily undertaken, is not a restraint but a reaffirmation of responsibility.” — Supreme Court in *Vijaya Bank v. Prashant B Narnaware*

Gangsters Act Misuse: SC Warns Against Mechanical Prosecution

Vinod Bihari Lal v. State of U.P., 2025 SCC OnLine SC 1216

Bench: J.B. Pardiwala and Manoj Misra, JJ.

FACTS OF THE CASE:

- In 2018, an FIR was lodged by the Station House Officer (SHO) against the appellant, *Vinod Bihari Lal*, under Sections 2 and 3 of the **Uttar Pradesh Gangsters & Anti-Social Activities (Prevention) Act, 1986** (hereinafter referred to as “the Act of 1986”).
- The FIR alleged that the appellant, along with another individual, was part of an organized gang under Section 2(b) of the Act and was the leader of the gang.

- The gang was alleged to have committed economic offences like fraud and cheating by forging documents, and such offences allegedly fell under Chapters XVI, XVII, and XXII of the IPC.
- A **gang-chart** was prepared based on three base FIRs, and the Special Judge (Gangster Act) issued **non-bailable warrants** on 28-02-2023.
- The application to recall these warrants was rejected on 14-03-2023.
- The accused filed an application under **Section 482 of the CrPC** before the Allahabad High Court seeking quashing of the FIR and the criminal proceedings.
- The High Court rejected the application, leading to the present appeals before the **Supreme Court**.

ISSUES BEFORE THE COURT:

- Whether the FIR and criminal proceedings initiated under the Act of 1986 against the appellant are sustainable in the absence of substantive and independent material?
- Whether the approval of the gang-chart and registration of the FIR complied with the procedural mandates laid down under the **Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Rules, 2021**?
- Whether the continuation of the criminal proceedings would amount to an **abuse of process of law** under the circumstances?
- Whether the High Court erred in declining to exercise its jurisdiction under **Section 482 CrPC**?

JUDGMENT:

- The Supreme Court allowed the appeals and **quashed** the impugned FIR, the gang-chart, and all criminal proceedings arising therefrom.
- The Court held that **no independent or substantive material** existed to sustain the invocation of the Act of 1986.
- The Court found the **gang-chart** to be a **mechanical and rubber-stamp approval** by authorities, lacking proper application of mind and violating **Rules 5(3)(a), 16, and 17** of the **Rules of 2021**.
- It was held that continuation of proceedings would amount to **undue harassment** and **abuse of the process of law**.
- The judgment and order of the **Allahabad High Court** were set aside.

RATIO DECIDENDI:

- **Definition of “Gang” under Section 2(b) of the Act of 1986:**

The Court clarified that mere association with alleged offenders does not constitute a “gang” unless the group engages in specific anti-social activities listed in clauses (i) to (xxv) of Section 2(b) and with the objective of disturbing public order or securing undue material or pecuniary advantage.

- **Prerequisite of a Valid Base FIR:**

Registration of a Gangsters Act FIR **requires a valid and substantiated base FIR**. In this case, the base FIRs lacked any credible material to indicate offences committed with the requisite object under the Act.

- **Lack of Independent Investigation:**

The **chargesheet lacked annexures, independent witness statements, and documentary evidence**, merely reproducing the contents of the FIRs. This reflected a **casual approach** by the investigating agency, failing to demonstrate a **genuine and transparent investigation**.

- **Rubber-Stamp Approval of Gang-Chart Violates Procedural Safeguards:**

Approval of the gang-chart without recorded satisfaction and without a joint meeting, as mandated under **Rules 5(3)(a), 16, and 17 of the Rules of 2021**, amounted to a **gross procedural violation**. Authorities failed to demonstrate **independent application of mind**.

- **Scope of Section 482 CrPC and Abuse of Process:**

The Court reaffirmed that **Section 482 CrPC** should be invoked where continuation of proceedings amounts to misuse of the legal process. Criminal prosecution must not proceed where the FIR and chargesheet do not disclose any offence on their face.

- **Reference to Case Law:**

- *Gorakh Nath Mishra v. State of U.P.*, **2024 SCC OnLine SC 4509**:

The Court had issued **guidelines** for invoking the Gangsters Act and emphasized strict adherence to procedural safeguards and the prescribed checklist.

- **Consequential Directions:**

The Court directed that authorities must **comply strictly** with the **Guidelines dated 02-12-2024** and ensure **non-mechanical approvals** when dealing with cases under the Act of 1986.

Bank Of India V. Sri Nangli Rice Mills Pvt. Ltd. & Ors, **2025 SCC OnLine SC 1229**

Bench: J.B. Pardiwala, J., Pankaj Mithal, J.

FACTS OF THE CASE:

- Sri Nangli Rice Mills Pvt. Ltd. (the borrower) availed a credit facility from Bank of India (BoI) by hypothecating stocks of paddy and other goods.
- Clause 4.6 of the Credit Facility Agreement between BoI and the borrower prohibited the borrower from taking a loan from any other bank until repayment of the sanctioned loan was completed.
- Despite the above, the borrower applied for and obtained another credit facility from Punjab National Bank (PNB) in November 2013.
- On 06-12-2013, a separate Agreement of Advance/Pledge Agreement was executed between the borrower and PNB. Under this agreement, warehouse receipts over the stocks (already hypothecated to BoI) were pledged in favor of PNB.
- In 2015, the borrower defaulted in repaying BoI. Upon inspection, BoI discovered PNB's pledge tags on the hypothecated stock.
- BoI filed a securitization application under Section 17 of the **SARFAESI Act, 2002**, before the **Debt Recovery Tribunal (DRT)**.
- The DRT held that BoI's hypothecation charge had priority over PNB's pledge and allowed BoI to sell the secured stock.
- PNB appealed to the **Debt Recovery Appellate Tribunal (DRAT)**, contending that the DRT lacked jurisdiction since the dispute was inter se between two banks.
- DRAT accepted this argument and remanded the matter.
- On remand, **DRT-I Chandigarh** held on 12-02-2020 that it lacked jurisdiction in light of **Section 11 of the SARFAESI Act**, as the dispute was between two secured creditors and ought to be resolved through **arbitration** under the **Arbitration and Conciliation Act, 1996**.
- BoI challenged this decision before the **Punjab & Haryana High Court**, which upheld the DRT's ruling.
- BoI thereafter approached the **Supreme Court** by way of appeal.

ISSUES BEFORE THE COURT:

- What is the meaning and scope of the expression “**any dispute relating to securitisation or reconstruction or non-payment of any amount due including interest**” under **Section 11** of the **SARFAESI Act**?

- What is the significance of the expression “**arises amongst any of the parties**” i.e., banks, financial institutions, asset reconstruction companies, or qualified buyers, under Section 11?
- Whether a **written arbitration agreement** is required for invoking arbitration under **Section 11 of the SARFAESI Act**?
- Is there any conflict between the decisions in *Oriental Bank of Commerce v. M/s Sikka Papers Ltd.*, (2002) 8 SCC 279, and *Federal Bank Ltd. v. Sagar Thomas*, (2003) 10 SCC 733?
- Whether **Section 11** of the SARFAESI Act is **mandatory or directory**?

JUDGMENT:

- The Supreme Court dismissed the appeal filed by Bank of India and **upheld the decisions** of the DRT and the High Court.
- It was held that **Section 11 of the SARFAESI Act** applies **mandatorily** when:
 - The dispute is between any of the entities specified in the section (bank, financial institution, ARC, qualified buyer); and
 - The dispute relates to **securitisation, reconstruction, or non-payment of any amount due including interest**.
- Since both conditions were fulfilled in the present case, **DRT had no jurisdiction**.
- The **only available remedy** was to seek **arbitration** under **Section 11 of the SARFAESI Act** read with the **Arbitration and Conciliation Act, 1996**.
- The Court **reiterated the legal fiction** created by Section 11: even **in the absence of a written arbitration agreement**, disputes under Section 11 are **deemed** to be subject to arbitration.
- **Section 11** was declared to be **mandatory**, and **not directory**, owing to the use of the word “shall”.

RATIO DECIDENDI:

- **Statutory Arbitration under Section 11:** Section 11 creates a legal fiction that disputes between entities named therein (banks, FIs, ARCs, qualified buyers), if relating to securitisation, reconstruction, or non-payment of dues, shall be **deemed** to be governed by arbitration under the **A&C Act, 1996, irrespective of any written agreement**. This is a **statutory override**.
- **DRT’s Lack of Jurisdiction:** Where such disputes fall within Section 11, **DRTs under Section 17 have no jurisdiction**. Their jurisdiction is ousted, and the appropriate forum becomes arbitration.

- **Interpretation of “non-payment of any amount due”:** This expression is of **wide amplitude** and includes **indirect defaults**, even those not involving borrowers directly but involving inter-creditor conflicts over realization of dues.
 - **Mandatory Nature of Section 11:** The provision is **not optional**. The use of “shall” makes it **compulsory**. Parties cannot by mutual consent or otherwise bypass it.
 - **Interplay with Section 2(f) of SARFAESI:** The term “**borrower**” includes **any person** (including a bank or financial institution) who takes financial assistance by creating a security interest. Thus, **a bank can become a borrower**, and the same rules of statutory arbitration apply.
-

Can Lawyers Be Summoned by Investigating Agencies?

Ashwinkumar Govindbhai Prajapati v. State of Gujarat, 2025 SCC OnLine SC 1384

Bench: K.V. Viswanathan, J., N.K. Singh, J.

FACTS OF THE CASE

- The petitioner is a practicing advocate enrolled in 1997 and serving as the President of the Vastral Advocates Association, Gujarat.
- On 24-06-2024, a loan-related agreement was executed between two private individuals.
- Subsequently, an FIR was registered on 13-02-2025 under:
 - **Sections 296(b) and 351(3)** of the *Bharatiya Nyaya Sanhita, 2023* (BNS)
 - **Sections 40, 42(a), 42(d), and 42(e)** of the *Gujarat Money-Lenders Act, 2011*
 - **Sections 3(2)(v) and 3(2)(va)** of the *Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989*
- The petitioner represented the accused in securing regular bail before the Sessions Court, which granted bail upon hearing.
- On 24-03-2025, the petitioner was served a notice under **Section 179 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)** by the Assistant Commissioner of Police, requiring him to appear for investigation in connection with the FIR.
- The petitioner challenged the notice before the High Court through a Special Criminal Application, which was dismissed on 11-04-2025.

- The High Court held that the summons was issued in the petitioner's capacity as a witness, and there was no infringement of fundamental rights.
- Aggrieved by the High Court's order, the petitioner approached the Supreme Court through a Special Leave Petition (SLP).

ISSUES BEFORE THE COURT

- When an individual is associated with a case solely in the capacity of a lawyer advising a party, can the Investigating Agency, Prosecuting Agency, or Police summon such a lawyer for questioning directly?
- Assuming that the Investigating or Prosecuting Agency contends that the individual's role extends beyond legal representation, should such summoning be permitted directly, or should it be subject to judicial oversight, particularly in cases that meet an exceptional threshold?

JUDGMENT

- The Supreme Court found **prima facie merit** in the petitioner's arguments and recognized that the matter involved **questions of grave public importance**.
- It **restrained the State** from summoning the petitioner until further orders and **stayed the operation** of the notice dated 24-03-2025, along with any subsequent notices issued in the same matter.
- Directed that **case papers be placed before the Chief Justice of India (CJI)** for constituting an appropriate Bench or taking further steps as deemed fit.
- Issued notices to:
 - The **Attorney General for India**
 - The **Solicitor General of India**
 - The **Chairman, Bar Council of India**
 - The **President/Executive Committees of the Supreme Court Bar Association and the Supreme Court Advocates-on-Record Association**
- Directed them to assist the Court in resolving the larger legal questions implicated in the matter.

RATIO DECIDENDI

- **Client-counsel privilege is protected under Section 132 of the Bharatiya Sakshya Adhiniyam, 2023**, and any attempt to summon an advocate for information obtained during legal representation **violates this statutory confidentiality**.
- **The legal profession forms an integral part of the administration of justice**. Subjecting legal practitioners to investigative summoning, without clear legal foundation or judicial scrutiny, **undermines the right to practice a profession freely** under **Article 19(1)(g)** of the Constitution.
- Investigative measures that involve lawyers **must meet an exceptional threshold** and cannot be exercised as a matter of course. Judicial intervention is necessary to ensure that such actions do not **deter lawyers from discharging professional responsibilities independently and fearlessly**.
- The issuance of summons in this case raised serious constitutional and professional concerns that **required authoritative determination by a larger Bench**.

“Subjecting legal counsel to the “beck and call” of investigating authorities, prima facie, appeared untenable and raised serious concerns about the independence of the legal profession.”

Supreme Court Enhances Permanent Alimony to Ensure Financial Stability of Divorced Woman

Rakhi Sadhukhan v. Raja Sadhukhan, 2025 SCC OnLine SC 1259

Bench: Vikram Nath, J., Sandeep Mehta, J.

FACTS OF THE CASE:

- The appellant, Rakhi Sadhukhan, was married to the respondent, Raja Sadhukhan, in 1997. A son was born to them in 1998.
- In July 2008, the respondent-husband filed a petition for dissolution of marriage under **Section 27 of the Special Marriage Act, 1954**, alleging cruelty.
- The appellant-wife, in turn, filed an application under **Section 24 of the Hindu Marriage Act, 1955**, seeking interim maintenance for herself and their minor son.
- In 2016, the Trial Court dismissed the husband’s divorce petition for lack of proof of cruelty.
- The husband challenged the judgment before the **Calcutta High Court**. During pendency of appeal, the wife sought interim maintenance of Rs. 30,000 for herself, Rs. 20,000 for the son, and Rs. 50,000 as litigation expenses.
- The High Court enhanced the interim maintenance to Rs. 20,000 per month.

- In **2019**, the High Court allowed the husband's appeal, granted divorce on grounds of mental cruelty and irretrievable breakdown of marriage, and issued directions:
 - The husband was to redeem the mortgage and transfer the title of the residence to the wife.
 - Permanent alimony of Rs. 20,000 per month with 5% enhancement every 3 years.
 - Pay for the son's university education and Rs. 5,000 per month for tuition.
- Dissatisfied with the **quantum of alimony**, the appellant-wife filed the present appeal before the Supreme Court.

ISSUES BEFORE THE COURT:

- Whether the quantum of permanent alimony of **Rs. 20,000 per month** fixed by the High Court was **just, fair, and reasonable** considering the wife's financial dependence and standard of living.
- Whether there was a need to **reassess the financial capability** of the husband and the appellant's entitlement in light of inflation and changed circumstances.

JUDGMENT:

- The Supreme Court **partially allowed** the appeal.
- The Court examined the **salary slips, ITRs, and bank statements** of the ex-husband and found him capable of paying a **higher amount**.
- Noting that the appellant had **remained unmarried**, the Court held that she was entitled to a level of financial support **commensurate with the standard of living during the marriage** and sufficient for her **financial stability**.
- The Court determined that **Rs. 50,000 per month**, subject to a **5% enhancement every two years**, was **just, fair, and reasonable** as permanent alimony.
- As the son was aged **26**, the Court declined to direct further financial support, leaving it to the **voluntary discretion** of the father.
- It was clarified that the son's **right to inheritance** or claim to **ancestral property** remains unaffected and may be pursued independently under law.
- The interim order dated 07-11-2023 enhancing maintenance to Rs. 75,000 was set aside to the extent it exceeded the Rs. 50,000 now fixed.

RATIO DECIDENDI:

- The measure of permanent alimony must reflect the **standard of living** enjoyed during marriage and ensure the recipient's **reasonable future security**, especially when she remains **unmarried and dependent**.
 - Courts must consider the **economic capacity of the spouse, inflation, and the realistic cost of living** while determining maintenance.
 - The **financial disclosures of the husband** were crucial in assessing his paying capacity, and failure to assess them adequately earlier warranted interference.
 - **Section 25 of the Hindu Marriage Act, 1955** was not expressly invoked but the reasoning aligns with its principles governing **permanent alimony and maintenance**.
 - Reliance on **interim orders** without full examination of financial records may cause **undue hardship or inadequate support**, justifying correction by appellate courts.
-

Involuntary Narco-Analysis Violates Fundamental Rights of Accused

Amlesh Kumar v. State of Bihar, 2025 SCC OnLine SC 1326

Bench: Sanjay Karol, J., Prasanna B. Varale, J.

FACTS OF THE CASE:

- An FIR was lodged alleging dowry harassment and disappearance of the complainant's sister, who was married to the appellant.
- During the bail hearing of the appellant before the Patna High Court, the Investigating Officer submitted that narco-analysis tests would be conducted on all accused and witnesses.
- The High Court accepted this submission without evaluating the voluntariness or necessity and directed that the tests be conducted.
- The appellant challenged this direction before the Supreme Court, arguing that such compelled testing violates Articles 20(3) and 21 of the Constitution of India.
- The appellant relied on the precedent laid down in *Selvi v. State of Karnataka*, (2010) 7 SCC 263, which held that involuntary narco-analysis, polygraph, and brain mapping tests are unconstitutional.

ISSUES BEFORE THE COURT:

- Whether an accused can be compelled to undergo narco-analysis testing without his free and informed consent.

- Whether the High Court's direction to conduct such a test, in the course of deciding a bail application under Section 439 CrPC, was legally sustainable.
- Whether the results of narco-analysis, even when conducted voluntarily, can be used as sole evidence for conviction.
- Whether an accused has an indefeasible right to demand narco-analysis testing.

JUDGMENT:

- The Supreme Court held that compelling an accused to undergo narco-analysis testing without their free and voluntary consent is **unconstitutional**.
- It set aside the Patna High Court's interim order permitting such testing during the pendency of a bail application.
- The Court directed that the appellant's bail application be reconsidered **afresh in accordance with law**, without the influence of the unconstitutional direction.
- It reaffirmed that any such test, if to be conducted, must be voluntary, with informed consent, and done in accordance with the procedural safeguards laid down in *Selvi* (supra).

RATIO DECIDENDI:

- **Violation of Article 20(3) and Article 21:** The forced administration of narco-analysis tests violates the right against self-incrimination and the right to life and personal liberty. (*Selvi v. State of Karnataka*, (2010) 7 SCC 263)
- **Invalidity of Compulsion Without Consent:** No investigating agency or court can direct such tests without the subject's free and informed consent, recorded before a Magistrate and accompanied by proper safeguards.
- **Improper Use During Bail Hearing:** A direction for narco-analysis testing during a bail hearing under Section 439 CrPC is procedurally impermissible. A bail proceeding is not the stage for judicial directions to employ investigative techniques, especially those infringing on fundamental rights.
- **Evidentiary Value of Test Results:** Even if a narco-analysis test is conducted voluntarily, its results **cannot form the sole basis for conviction**. Such disclosures may have limited value only if they lead to a discovery of fact admissible under Section 27 of the Indian Evidence Act, 1872.
 - *Vinubhai v. State of Kerala*, 2025 SCC OnLine SC 178
 - *Manoj Kumar Soni v. State of M.P.*, 2023 SCC OnLine SC 984

- **No Absolute Right to Demand Testing:** An accused has **no infeasible right** to demand a narco-analysis test. Such a request may be considered at the **stage of defence evidence under Section 233 CrPC**, subject to judicial satisfaction regarding voluntariness and necessity.
-

**Right To Close Business Protected Under Article 19(1)(g), But Subject to Reasonable Restrictions;
Supreme Court Strikes Down State Action Against Closure as Unconstitutional
Harinagar Sugar Mills Ltd. v. State of Maharashtra, 2025 SCC OnLine SC 1303
*Bench: Sanjay Karol, J., Prashant Kumar Mishra, J.***

FACTS OF THE CASE

- Harinagar Sugar Mills Ltd. (Biscuit Division) ("HSML") voluntarily decided to close its business operations and submitted an application for closure dated 28-08-2019 under **Section 25-O of the Industrial Disputes Act, 1947**.
- The Deputy Secretary, Ministry of Labour, Government of Maharashtra responded on 25-09-2019 stating that the reasons cited were insufficient and advised HSML to resubmit the application with further justification.
- HSML challenged the State's inaction and refusal to permit closure, arguing that their constitutional right under **Article 19(1)(g)** was being infringed.
- The **Bombay High Court** had ruled against HSML, holding that the employer failed to comply with the procedural conditions for lawful closure under Section 25-O, and therefore the closure was illegal.
- The High Court directed that the workmen be treated as though the business had not closed, asserting the supremacy of statutory protections for workers over the employer's unilateral decision.

ISSUES BEFORE THE COURT

- Whether the right to close down a business is protected under **Article 19(1)(g)** of the Constitution of India.
- Whether the action of the Deputy Secretary in rejecting the closure application was legally valid under **Section 25-O of the Industrial Disputes Act, 1947**.
- Whether the restriction imposed by the State on the closure was reasonable under **Article 19(6)**.

- Whether communication from an authority other than the “appropriate Government” under Section 25-O is valid in law.

JUDGMENT

- The Supreme Court held that **the right to close down a business is an essential component of the right to carry on business under Article 19(1)(g)**.
- It struck down the Deputy Secretary’s communication, holding that **he was not the “appropriate Government” under the Act**, and any sub-delegation of powers to him was without legal sanction.
- The Court found that the **application dated 28-08-2019 was complete**, and since no valid decision was rendered by the appropriate Government within 60 days, **the closure was deemed to have been approved by law**.
- The Bench emphasized that **any restriction on the right to close must satisfy the test of reasonableness under Article 19(6)** and held that the impugned restriction **did not meet that threshold**.
- The Court **allowed the appeal** and quashed the orders passed by the High Court. It also clarified that the amounts paid to employees during the pendency of litigation **need not be recovered**.

RATIO DECIDENDI

- The **freedom to carry on a business under Article 19(1)(g) necessarily includes the freedom not to carry it on**. This principle is well-settled in constitutional jurisprudence.
- Citing **Excel Wear v. Union of India, (1979) 1 SCC 224**, the Court reaffirmed that a complete and unreasonable prohibition on closure is violative of Article 19(1)(g).
- **Restrictions imposed by Section 25-O of the Industrial Disputes Act must be reasonable and proportionate**, failing which they will be struck down as unconstitutional.
- The authority to decide on closure lies exclusively with the **“appropriate Government”**, and **sub-delegation to an officer like the Deputy Secretary without statutory basis is ultra vires**.
- The constitutional guarantee under Article 19(1)(g) **cannot be rendered illusory** by administrative fiat or inaction; procedural lapses by the State cannot prejudice the exercise of a fundamental right.
- Referring to **Mohd. Hanif Quareshi v. State of Bihar, AIR 1958 SC 731**, the Court reiterated that **restrictions under Article 19(6) must not destroy the essence of the guaranteed right**.

Supreme Court Recognises Limited Power of Courts to Modify Arbitral Awards Under Section 34 And 37

Gayatri Balasamy v. M/s ISG Novasoft Technologies Limited, 2025 INSC 605

Bench: Chief Justice Sanjiv Khanna, Justice Bhushan R. Gavai, Justice Sanjay Kumar, Justice Kalpathy V. Viswanathan, Justice Augustine G. Masih JJ.

FACTS OF THE CASE:

- The appellant, Gayatri Balasamy, was employed by M/s ISG Novasoft Technologies Ltd.
- She filed a criminal complaint against senior officials of the company, alleging sexual harassment.
- The company retaliated by filing criminal complaints for defamation and extortion.
- When the dispute reached the Supreme Court, the matter was referred to arbitration.
- The Arbitral Tribunal awarded ₹2 crores in favor of the appellant.
- Dissatisfied, the appellant approached the Madras High Court under Section 34 of the Arbitration and Conciliation Act, 1996.
- The Single Judge modified the award and granted an additional ₹1.6 crores.
- On appeal under Section 37, the Division Bench reduced the enhancement to ₹50,000, finding the original compensation excessive.
- The appellant filed a further appeal before the Supreme Court.
- Owing to conflicting precedent regarding the power to modify arbitral awards, a Constitution Bench was constituted to resolve the issue.

ISSUES BEFORE THE COURT:

- Whether Indian courts have the jurisdiction to **modify** an arbitral award under Section 34 and 37 of the Arbitration and Conciliation Act, 1996.
- Whether the power to **set aside** an arbitral award includes the **lesser power** to modify the award.
- Whether the Supreme Court can modify an arbitral award by invoking **Article 142** of the Constitution of India.

JUDGMENT:

- By a **4:1 majority**, the Constitution Bench held that **courts have a limited power to modify arbitral awards** under Sections 34 and 37 of the Arbitration and Conciliation Act, 1996.

- The **majority judgment** was authored by Chief Justice Sanjiv Khanna.
- **Justice Kalpathy V. Viswanathan dissented**, holding that courts cannot modify arbitral awards and may only set aside or remit awards in accordance with statutory limits.
- The Court affirmed that **post-award interest** can be modified by courts in appropriate cases, though **pendente lite interest** cannot be altered.

RATIO DECIDENDI:

• Doctrine of Severability under Section 34(2)(a)(iv):

- The **proviso** to Section 34(2)(a)(iv) allows **severance** of offending parts of an award if they are separable from valid parts.
- The **power to set aside** necessarily includes the power to **partially set aside** (omne majus continet in se minus).
- This implies a **limited power of modification**, where a court may uphold valid segments and sever only the defective ones.
- *McDermott International Inc. v. Burn Standard Co. Ltd.* (2006 INSC 325) and *Project Director, NHAI v. M. Hakeem* (2021 INSC 344) were distinguished as not barring partial modifications where warranted.

• Modification distinguished from Remand:

- Section 34(4) permits **remand to the arbitral tribunal** for curing defects, but does not prevent the court from **modifying** computational, clerical, or typographical errors.
- The Court held that **modification is not equivalent to a re-adjudication**, but is permitted when limited to clearly severable and objective matters.
- *Kinnari Mullick v. Ghanshyam Das Damani* (2017 INSC 1281) was partly overruled to the extent it restricted remand only upon a written application.

• Interpretation in line with Arbitration Objectives:

- The 1996 Act promotes speedy and cost-effective dispute resolution.
- Prohibiting all modifications would result in delays, fresh arbitration proceedings, and unnecessary litigation, defeating the Act's purpose.
- Thus, the **power to modify is inherent** in the **power to set aside**, where the facts support such an outcome.

- **Limits under Article 142 of the Constitution:**

- Article 142 can be invoked to **end prolonged litigation** and do **complete justice**, but cannot be used to **rewrite an arbitral award on merits**.
- The Supreme Court can correct computational or legal errors if consistent with statutory provisions, but not bypass them altogether.

- **Enforcement under New York Convention not impacted:**

- Limited modifications under domestic law (i.e., Indian courts modifying domestic awards) will **not jeopardize enforceability** of foreign awards.
- Article V of the New York Convention recognizes domestic law remedies, and Section 46 of the 1996 Act aligns with this view.

- **Post-Award Interest May Be Modified:**

- Courts can **modify post-award interest** granted by arbitrators where it causes unjust enrichment or deviates from contractual intent.
- However, **interest granted pendente lite** cannot be interfered with unless it contravenes public policy.

- **Dissenting View – Justice Viswanathan:**

- Modification is **not included** within the power to set aside.
 - Section 34 is **procedural**, not appellate – it does **not authorize merit-based review** or substitution of findings.
 - The legal maxim *omne majus continet in se minus* **does not apply** to Section 34 due to its **distinct legal character**.
 - Parliament's repeated **refusal to incorporate** modification powers into the 1996 Act reflects a clear legislative intent.
 - Any deviation, especially via **Article 142**, would undermine **contractual autonomy** and **party consent**, the foundation of arbitration.
-

Secretly Recorded Spousal Conversations Admissible in Matrimonial Cases

Vibhor Garg v. Neha, 2025 SCC OnLine SC 1421

Bench: BV Nagarathna, J., Satish Chandra Sharma, J.

FACTS OF THE CASE

- The appellant-husband and respondent-wife were married on 20-02-2009. A daughter was born to them on 11-05-2011.
- Owing to marital discord, the husband filed a divorce petition under **Section 13 of the Hindu Marriage Act, 1955** on 07-07-2017, later amended on 03-04-2018.
- During trial, the husband filed his affidavit in chief on 07-12-2018. On 09-07-2019, he sought permission to file a *supplementary affidavit* along with:
 - Memory cards
 - A compact disc (CD)
 - Transcripts of conversations between the parties recorded between November 2010 and December 2016.
- The wife objected, citing lack of consent and right to privacy.
- On 29-01-2020, the **Family Court** allowed the husband's application, holding the evidence admissible under **Sections 14 and 20 of the Family Courts Act, 1984**.
- The wife filed a revision petition before the **Punjab and Haryana High Court**, which:
 - Set aside the Family Court's order.
 - Held that secretly recorded conversations violated the wife's **right to privacy under Article 21**.
 - Declared such evidence inadmissible.
- The husband appealed to the **Supreme Court**.

ISSUES BEFORE THE COURT

- Whether the High Court was justified in rejecting the husband's right to submit secretly recorded conversations as evidence in matrimonial proceedings.
- Whether **Section 122 of the Indian Evidence Act, 1872**, which protects spousal communications, bars the admission of such electronic evidence.
- Whether a secretly recorded conversation can be admitted in a divorce proceeding, despite objections based on privacy.

- Whether such evidence should be disallowed solely on the ground that it violates the privacy of one spouse.

JUDGMENT

- The Supreme Court **allowed the appeal**, setting aside the Punjab and Haryana High Court's order and **restored the Family Court's order**.
- Held that **Section 122 of the Evidence Act** protects the **sanctity of marital communication**, not individual privacy rights.
- Clarified that **Section 122 contains an express exception**: communications may be disclosed in **proceedings between the spouses themselves**.
- Directed the Family Court to **accept and consider the husband's supplementary affidavit and accompanying electronic evidence** in accordance with law.

RATIO DECIDENDI

- **Section 122 of the Indian Evidence Act, 1872:**
 - Provides a **privilege against disclosure** of spousal communications during a valid marriage.
 - Contains two parts:
 - **Compellability**: a spouse **cannot be compelled** to disclose any such communication.
 - **Permissibility**: even if willing, a spouse **cannot disclose** such communication unless the communicator consents.
 - However, this privilege is **expressly subject to two exceptions**:
 - **Proceedings between spouses.**
 - **Criminal proceedings for offences committed by one spouse against the other.**
- Since the divorce petition was a proceeding *between the spouses*, the bar under Section 122 **does not apply**.
- **Right to privacy under Article 21:**
 - Section 122 does **not create a constitutional privacy right**.
 - It is a **statutory privilege**, not a fundamental right.

- The section does **not apply horizontally** and cannot be enforced by one spouse against the other on constitutional grounds.
 - **Electronic Evidence and Section 65B of Evidence Act:**
 - Electronically recorded conversations are **admissible** if authenticated in compliance with Section 65B.
 - Illegality in procurement does **not render evidence inadmissible** unless explicitly prohibited.
 - What matters is **relevance, reliability, and accuracy** of the evidence.
 - **Section 14 of the Family Courts Act, 1984:**
 - Authorizes Family Courts to **receive any evidence** even if inadmissible under the Indian Evidence Act.
 - However, in this case, the evidence is already **admissible under Section 122's exception**, and hence recourse to Section 14 was not necessary.
 - The **recording device is akin to an eavesdropper** and not subject to privilege under Section 122.
 - The **communication, if not disclosed through the spouse's oral testimony**, can still be presented via **lawful means**, including electronic storage.
-

Supreme Court Commutes Death Sentence to Life Imprisonment After Considering Mitigation Report in Detail

Byluru Thippaiah @ Byaluru Thippaiah @ Nayakara Thippaiah v. State of Karnataka, 2025 INSC 862

Bench: Vikram Nath J, Sanjay Karol J, Sandeep Mehta J

FACTS OF THE CASE:

- The Appellant, Byluru Thippaiah, was tried for the **murder of five family members**: his wife (D-1), sister-in-law (D-2), and three minor children (D-3 to D-5), on 25 February 2017, in Karnataka.
- The motive was **suspicion of infidelity** and doubts over the paternity of the children, except one daughter, Rajeshwari.
- The Appellant **confessed to the crime**, and eyewitnesses (PWs 2, 5, 8, 11, 16) corroborated that he **emerged from the house with a blood-stained chopper**, declaring he had killed them.
- PW-33 (Investigating Officer) confirmed **voluntary surrender and confession** before the police.

- Despite a defence witness (PW-22, his daughter Rajeshwari) who supported the Appellant, the **Trial Court disbelieved her testimony**, given the overwhelming independent evidence.
- The Trial Court convicted the Appellant under **Section 302 IPC** and sentenced him to **death**, citing the **gruesome, cold-blooded and premeditated nature** of the crime.
- The **High Court, in confirmation proceedings under Section 366 CrPC**, affirmed the conviction and the **death sentence**, concluding that the case fell within the "**rarest of rare**" category.

ISSUES BEFORE THE COURT:

- Whether the conviction of the Appellant under Section 302 IPC was valid and sustainable.
- Whether the sentence of death confirmed by the High Court was justified in law under the "rarest of rare" standard.
- Whether the High Court had properly considered and applied the guidelines laid down in *Manoj v. State of M.P.*¹⁰ regarding sentencing and mitigation.

JUDGMENT:

- The **Supreme Court upheld the conviction** of the Appellant under Section 302 IPC, observing that the **entire chain of circumstances was cogently proved**, with **eyewitnesses, medical evidence, recovery of the weapon, and confession** conclusively establishing guilt.
- It found the **crime was premeditated**, as the Appellant sent his only acknowledged daughter, Rajeshwari, away before the incident. The nature of the murders was brutal and committed within the confines of the home.
- However, the Supreme Court **commuted the death sentence to life imprisonment without remission**, on the ground that the High Court had **failed to conduct a comprehensive sentencing analysis** as mandated by Constitution Bench rulings.
- The Court noted that **mitigation reports, psychiatric and psychological evaluations, and reformative indicators** were not given adequate judicial weight by the High Court.
- The judgment heavily relied on **Manoj v. State of M.P.**, (2022) 5 SCC 1, which mandates that sentencing must not be mechanical and must consider the convict's **mental health, socio-economic background, possibility of reform, jail conduct, and trauma** suffered in life.

¹⁰ (2022) 5 SCC 1.

- The Court also relied on *Swami Shraddhanand v. State of Karnataka*, (2008) 13 SCC 767, where life imprisonment without remission was held to be a constitutional middle ground in cases where death penalty is not warranted but simple life term is insufficient.
- It further invoked *Bachan Singh v. State of Punjab*, (1980) 2 SCC 684, affirming that the **rarest of rare doctrine** is not based solely on the nature of crime but also on the **offender's circumstances and reformatory potential**.
- The Court referred to *Ramesh A. Naika v. Registrar General*, 2024 SCC OnLine SC 1022, to reaffirm the need for **mitigation reports to be central to sentencing** in capital cases.
- Based on the **Appellant's good prison conduct, educational engagement, absence of prior criminal record, emotional remorse, mild depressive tendencies, and impact on surviving daughter**, the Court concluded that the Appellant **did not pose a continuing threat to society**.

RATIO DECIDENDI:

- A death sentence can only be upheld when the alternative of life imprisonment is unquestionably foreclosed. This requires a **detailed, individualized sentencing inquiry** grounded in mitigating factors.
- The High Court **erred in mechanically affirming the death penalty** without adequately analyzing:
 - Psychological reports
 - Reformatory prospects
 - Jail records
 - Family circumstances
 - Social and educational background
- The **doctrine of "rarest of rare"**, as laid down in *Bachan Singh*, demands **balancing aggravating and mitigating factors**. Brutality of crime **alone is insufficient** to impose capital punishment.
- The Court must give **meaningful consideration to mitigation reports**, not just formally refer to them, in light of *Manoj v. State of M.P.*
- In the presence of **reformatory indicators**, such as remorse, good conduct, and emotional ties, the **death penalty becomes disproportionate**, and **life imprisonment without remission** becomes the appropriate sentence.

- The principle of “**erring on the side of life**”, reaffirmed in *Swami Shraddhanand*, guides courts to preserve life wherever there is a possibility of reformation.
-

Supreme Court Recognises Equal Inheritance Rights of Tribal Woman’s Heirs in Absence of Customary Bar

Ram Charan v. Sukhram, 2025 SCC OnLine SC 1465

Bench: Sanjay Karol, J., Joymalya Bagchi, J.

FACTS OF THE CASE:

- The Plaintiffs, legal heirs of a tribal woman ‘D’, sought partition of their maternal grandfather BG’s ancestral property.
- BG had six children, including the Plaintiffs’ mother. Upon BG’s death, Plaintiffs claimed their mother was entitled to an equal share in the property.
- The dispute began in October 1992 when Defendants 6 to 16 refused partition of the property.
- The Plaintiffs filed a suit for declaration of title and partition. The Trial Court dismissed the suit, holding that the Plaintiffs’ mother had no inheritance right.
- First Appellate Court (2009) upheld the Trial Court’s findings. It held that Plaintiffs failed to prove any customary right that allowed inheritance by children of a tribal woman.
- The matter reached the Chhattisgarh High Court, which also dismissed the appeal, holding that:
 - No custom had been proved to show tribal woman heirs could inherit.
 - Plaintiffs failed to establish they had adopted Hindu traditions.
 - The findings were in line with Supreme Court rulings in:
 - *Salekh Chand v. Satya Gupta*, (2008) 13 SCC 119
 - *Ratanlal v. Sundarabai Govardhandas Samsuka*, (2018) 11 SCC 119
 - *Aliyathamuda Beethathebiyyapura Pookoya v. Pattakal Cheriyaakoya*, (2019) 16 SCC 1
- Aggrieved, the Plaintiffs filed an appeal before the Supreme Court.

ISSUES BEFORE THE COURT:

- Whether a tribal woman or her legal heirs are entitled to an equal share in ancestral property in the absence of an express customary prohibition?
- Whether the principles of justice, equity and good conscience can be invoked in such a scenario?
- Whether the repeal of the Central Provinces Laws Act, 1875 in 2018 affects accrued inheritance rights?
- Whether the denial of inheritance rights amounts to a violation of Article 14 and Article 15(1) of the Constitution?

JUDGMENT:

- The Supreme Court allowed the appeal and set aside the judgments of the Trial Court, First Appellate Court, and High Court.
- It held that the Plaintiffs, as legal heirs of a tribal woman, are entitled to an equal share in the property of their maternal grandfather BG.
- The Court directed partition as per law and acknowledged that rights accrued prior to the repeal of the 1875 Act remain protected under the Savings Clause.
- The Court held that denying inheritance solely due to gender or absence of proven custom violates the constitutional guarantee of equality.

RATIO DECIDENDI:

- Section 2(2), Hindu Succession Act, 1956 excludes Scheduled Tribes, hence Hindu personal law does not apply.
- The case is governed by Section 6, Central Provinces Laws Act, 1875, which allows courts to apply justice, equity and good conscience in absence of any personal or customary law.
- The repeal of the 1875 Act in March 2018 does not affect rights that accrued prior to the repeal, as protected by the Savings Clause.
- Courts below wrongly presumed an exclusionary custom and placed the burden on Plaintiffs to disprove it, when no such custom was shown by Defendants either.
- The approach was based on a patriarchal inference drawn from Hindu law, which was impermissible in a case involving Scheduled Tribes.
- Custom must be proved. In the absence of any valid custom (either for or against female inheritance), justice, equity and good conscience must prevail.

- The constitutional mandate under Articles 14, 15(1), 38 and 46 requires non-discrimination on grounds of sex, especially where there is no legal or customary prohibition.
 - The denial of inheritance to the Plaintiffs' mother and, by extension, to them, solely due to her being a woman amounts to constitutionally impermissible discrimination.
 - The Court emphasized that customs cannot be frozen in time and cannot be used to deprive legitimate rights.
-

Strictures Against Judicial Officers Must Be Avoided Unless Necessary

Kaushal Singh v. State of Rajasthan, 2025 INSC 871

Bench: Vikram Nath J, Sanjay Karol J, Sandeep Mehta J

FACTS OF THE CASE:

- The appellant, a Judicial Officer in the District Judge Cadre in Rajasthan, granted bail to accused *Sethu @ Angrej* in FIR No. 224 of 2022, registered under Sections 147, 323, 341, 325, 307, 427 read with Section 149 IPC.
- The FIR initially did not invoke Section 307 IPC. The provision was added later based on medical reports. A chargesheet under the aforementioned provisions was filed on 20 December 2022.
- The Judicial Magistrate had earlier rejected the bail plea of *Sethu @ Angrej* on 17 December 2022.
- On 19 December 2022, while discharging duty as a Link Officer of the Sessions Court, the appellant-Judicial Officer granted bail to three accused, including *Sethu @ Angrej*, based on parity with *Sethu @ Haddi*, who had been granted bail by the Rajasthan High Court on 16 December 2022.
- The appellant relied on *Khet Singh & Another v. State of Rajasthan*, 2022 SCC OnLine Raj 1189, while granting bail.
- The appellant mistakenly believed that the life-threatening injury was inflicted by *Sethu @ Haddi* and failed to consider the criminal antecedents of *Sethu @ Angrej*.
- Bail was later cancelled by the Sessions Judge on 6 July 2023 under Section 439(2) CrPC, holding that the counsel misled the court.
- The High Court, while rejecting a subsequent bail application in *S.B. Criminal Misc. Bail Appl. No. 4677/2024*, passed strictures against the appellant, calling his order “grossly inappropriate and cavalier” and accused him of negligence and disobedience of High Court rulings.

- It held that the appellant ignored the ruling in *Jugal v. State of Rajasthan*, 2023 SCC OnLine Raj 1457, which required that criminal antecedents be included in bail orders in tabular form.
- The High Court's judgment relied on *Jugal* and criticised the application of *Khet Singh* by the appellant.
- The appellant approached the Supreme Court challenging the adverse remarks made without any notice or opportunity to be heard.

ISSUES BEFORE THE COURT:

- Whether the High Court erred in passing strictures against the appellant-Judicial Officer without giving him an opportunity to be heard.
- Whether such strictures were sustainable when based on a precedent (*Jugal v. State of Rajasthan*) that stood reversed.
- Whether personal remarks on judicial officers' conduct in judicial orders are justified in the absence of administrative proceedings.

JUDGMENT:

- The Supreme Court **allowed the appeal** and **expunged the strictures** against the appellant.
- It held that the High Court's **failure to afford a hearing** to the appellant before making adverse remarks violated **principles of natural justice**.
- The judgment of the High Court was based on *Jugal v. State of Rajasthan*, which had already been **overruled** in *Ayub Khan v. State of Rajasthan*, 2024 SCC OnLine SC 1221.
- The Court reaffirmed the principles laid down in *In Re: 'K', A Judicial Officer*, (2001) 3 SCC 54, which cautioned against making personal criticisms of subordinate judges in judicial orders.
- The Court reiterated what was held in *Sonu Agnihotri v. Chandra Shekhar & Ors.*, (2023) 9 SCC 132, emphasizing restraint in judicial observations about the conduct or calibre of judges.
- It directed that instead of judicial criticism, concerns about judicial conduct should be dealt with through **confidential administrative communication** with the Chief Justice.
- In light of the procedural failure and reliance on a reversed precedent, the impugned remarks were **deleted** and the High Court's order was **modified**.
- The Supreme Court also referred to **Rule 5, Chapter 1-A(b), Volume-V of the Punjab and Haryana High Court Rules**, which mandates disclosure of prior criminal records in bail applications.

- The Court directed that this judgment be **circulated to all High Courts** for considering inclusion of similar rules to ensure greater accountability during bail hearings.

RATIO DECIDENDI:

- **Superior courts must not make personal remarks against judicial officers in their judgments unless an opportunity to be heard is provided**, as per the principle of *audi alteram partem*.
 - Judicial discipline demands that **criticism of judicial orders** must be **distinguished from criticism of the judicial officer** personally. The former is permissible within the appellate or revisional framework; the latter requires administrative action.
 - **Followed:**
 - *In Re: 'K', A Judicial Officer*, (2001) 3 SCC 54 — personal remarks against judges in judgments violate natural justice; administrative alternatives exist.
 - *Sonu Agnihotri v. Chandra Shekhar & Ors.*, (2023) 9 SCC 132 — personal comments must be avoided; appellate criticism must focus only on the judgment, not the judge.
 - **Held:** The High Court's reliance on *Jugal v. State of Rajasthan*, 2023 SCC OnLine Raj 1457 was misplaced since it was **overruled** by *Ayub Khan v. State of Rajasthan*, 2024 SCC OnLine SC 1221.
 - The *Khet Singh v. State of Rajasthan*, 2022 SCC OnLine Raj 1189 precedent was wrongly distinguished by the High Court, despite it being cited in good faith by the appellant.
-

Arbitration Clause Containing 'May' Does Not Constitute Binding Agreement to Arbitrate

BGM AND M-RPL-JMCT (JV) v. Eastern Coalfields Ltd., 2025 INSC 874

***Bench:* P.S. Narasimha J, Manoj Misra J**

FACTS OF THE CASE:

- The appellant, a joint venture entity (BGM AND M-RPL-JMCT (JV)), entered into a contract with Eastern Coalfields Ltd. for transportation and handling services.
- Disputes arose during execution of the contract.
- Clause 13 of the General Terms and Conditions (GTC), which formed part of the contract, included a multi-tier dispute resolution mechanism. It provided for internal resolution, and stated that in case of parties other than Government agencies, "redressal of the dispute may be sought through Arbitration and Conciliation Act, 1996."

- The appellant invoked Clause 13 and filed an application under Section 11(6) of the *Arbitration and Conciliation Act, 1996* seeking appointment of an arbitrator.
- The respondent opposed the application, arguing that Clause 13 did not constitute a binding arbitration agreement, and referred to Clause 32 of the Instructions to Bidders, which conferred exclusive jurisdiction on civil courts.
- The Calcutta High Court dismissed the application, holding there was no arbitration agreement. The appellant challenged this decision before the Supreme Court.

ISSUES BEFORE THE COURT:

- Whether the question of existence of an arbitration agreement should be referred to the arbitral tribunal or determined by the court at the Section 11 stage.
- Whether Clause 13 of the contract satisfies the conditions laid out in Section 7 of the *Arbitration and Conciliation Act, 1996* so as to constitute an arbitration agreement.
- Whether Clause 32 of the Instructions to Bidders negates the existence of an arbitration agreement.

JUDGMENT:

- The Supreme Court upheld the Calcutta High Court's dismissal of the application under Section 11(6), holding that Clause 13 does not amount to a binding arbitration agreement.
- The Court held that use of the expression "may be sought through arbitration" indicated that arbitration was optional and contingent upon further agreement between the parties.
- Clause 13 was only an enabling provision and lacked the essential elements of a binding arbitration agreement under Section 7 of the *Arbitration and Conciliation Act, 1996*.
- Since the parties were never *ad idem* (of the same mind) about submitting disputes to arbitration, the referral to arbitration could not be made.
- The appeal was dismissed without costs. Pending applications, if any, were also disposed of.

RATIO DECIDENDI:

- **Section 7 of the Arbitration and Conciliation Act, 1996** requires that an arbitration agreement must:
 - Be in writing;
 - Record the mutual intention of the parties to submit disputes to arbitration;
 - Empower the arbitrator to resolve disputes impartially; and

- Be binding on both parties.
 - The Referral Court, while acting under Section 11, is required to conduct only a **prima facie examination** to ascertain whether an arbitration agreement exists.
 - As held in *Interplay Between Arbitration Agreements under Arbitration Act, 1996 & Stamp Act, 1899, In re*, (2023) 9 SCC 1:
 - Referral Court should not conduct a mini-trial;
 - Its role is confined to verifying prima facie existence of an arbitration agreement.
 - In *Jagdish Chander v. Ramesh Chander*, (2007) 5 SCC 719, it was held:
 - Use of terms like “may be referred to arbitration if parties so determine” reflects absence of mutual agreement;
 - Such clauses are not binding arbitration agreements but contingent arrangements.
 - In *Mahanadi Coalfields Ltd. v. IVRCL AMR Joint Venture*, (2022) 4 SCC 595:
 - Even if the heading says “Arbitration”, substantive content of the clause matters;
 - A clause stating disputes “may be resolved through arbitration” is not sufficient.
 - The Supreme Court reiterated that **the word “may” signifies a permissive or enabling clause**, and does not reflect a present, binding obligation to arbitrate.
 - The absence of a mandatory reference mechanism and lack of mutual agreement rendered Clause 13 unenforceable as an arbitration agreement.
 - Clause 32 of the Instructions to Bidders, which stated that disputes “shall be subject to the jurisdiction of District Court”, further diluted any inference of intent to arbitrate.
-

SUMMARY UPDATES: A CONCISE LEGAL SUMMARY OF MOST IMPORTANT JUDGMENTS OF 2025

SUPREME COURT UPHOLDS USE OF URDU AS ADDITIONAL LANGUAGE ON MUNICIPAL SIGNBOARDS

Varshatai v. The State of Maharashtra, 2025 INSC 486 (15 April 2025)

Bench: Justice Sudhanshu Dhulia and Justice Krishnan V. Chandran

- The Court upheld Bombay High Court's interpretation that the Maharashtra Local Authorities (Official Languages) Act, 2022 does not prohibit Urdu as an additional language on municipal signboards.
- It held that language is a tool for communication and not a barrier to governance.
- The display of Urdu alongside Marathi on the Patur Municipal Council building was valid and consistent with the constitutional value of tolerance.
- Section 3(2) of the 2022 Act and Article 345 of the Constitution permit use of multiple languages for effective communication.
- The Court emphasized that Urdu is not foreign to India, and is deeply rooted in Indian culture and everyday usage, including judicial parlance.
- Reference made to *Uttar Pradesh Hindi Sahitya Sammelan v. State of U.P.*, 2014 INSC 594 in support of linguistic flexibility under Article 345.

FIR FOR POEM PROMOTING SACRIFICE AND NON-VIOLENCE QUASHED AS ABUSE OF LAW

Imran Pratapgadhi v. State of Gujarat, 2025 INSC 410

Bench: Justice Abhay S. Oka and Justice Ujjal Bhuyan

- The Court quashed an FIR filed under multiple Sections of the Bharatiya Nyaya Sanhita, 2023 (Sections 196, 197, 299, 302, 57) against the appellant for posting a poem in Urdu promoting non-violence and sacrifice.
- Held that there was no prima facie offence; the FIR was a mechanical exercise violating Article 19(1)(a).

- The poem was non-inflammatory, had no communal undertone, and invoked symbolic resistance against injustice.
- The Court emphasized that free speech cannot be stifled merely on allegation, particularly when mens rea is absent.
- Preliminary inquiry under Section 173(3) BNSS was mandatory before FIR, since alleged offences carried punishments between 3–7 years.
- Relied on *Manzar Sayeed Khan v. State of Maharashtra*, (2007) 5 SCC 1 and *Patricia Mukhim v. State of Meghalaya*, (2021) 15 SCC 35 to reinforce the requirement of mens rea in hate speech cases.
- Quoted *Bhagwati Charan Shukla v. Provincial Government, C.P. & Berar*, 1946 SCC OnLine MP 5 to hold that alleged offensive speech must be judged from the perspective of strong-minded, reasonable persons.
- Reiterated from *Shreya Singhal v. Union of India*, (2015) 5 SCC 1, that dissent and unpopular opinions must be constitutionally protected.

SUPREME COURT QUASHES EXPULSION OF LEGISLATOR AS DISPROPORTIONATE

Sunil Kumar Singh v. Bihar Legislative Council, 2025 INSC 264 (25 February 2025)

Bench: Justice Surya Kant, Justice Nongmeikapam K. Singh

- **Facts:** Petitioner, a member of the Bihar Legislative Council, was expelled for disruptive conduct during the Governor's address. The expulsion followed an Ethics Committee inquiry that lacked procedural fairness.
- **Issues:** (i) Maintainability of writ petition under Article 212(1); (ii) Scope of judicial review over Ethics Committee decisions; (iii) Whether expulsion was disproportionate; (iv) Whether the Court can modify the punishment.
- **Held:** Supreme Court quashed the expulsion as **disproportionate and unconstitutional**.
- **Key Ratio:**
 - *Article 212(1)* bars review of legislative procedure, not administrative decisions like expulsion.
 - Judicial review is permissible where **fundamental rights or constitutional principles** are violated.

- *Doctrine of proportionality* applies to legislative punishments; expulsion was excessive given the conduct.
- Invoking **Article 142**, the Court substituted expulsion with deemed suspension for the period already served.
- The Petitioner was reinstated but denied back wages; bye-election proceedings were quashed.

ARREST ILLEGAL WITHOUT GROUNDS BEING COMMUNICATED: SUPREME COURT

Vihaan Kumar v. State of Haryana, 2025 INSC 162 (7 February 2025)

Bench: Justice Abhay S. Oka, Justice Nongmeikapam Kotiswar Singh

- **Facts:** Appellant arrested for economic offences was not informed of arrest grounds and was handcuffed to a hospital bed. He challenged the arrest as violative of Articles 21 and 22.
- **Issues:** (i) Violation of Article 22(1); (ii) Illegality of handcuffing; (iii) Whether subsequent remand cures initial illegality.
- **Held:** Arrest declared **illegal**; Appellant **released immediately**; Remand orders quashed.
- **Key Ratio:**
 - *Article 22(1)* requires **meaningful communication** of arrest grounds, ideally in writing.
 - Oral assertions and diary entries are insufficient. Failure to rebut the Appellant's claim meant arrest was unconstitutional.
 - *Article 21* violated due to handcuffing and chaining in hospital without justification.
 - Later legal steps **cannot cure** arrest made in violation of constitutional rights.
 - Justice Singh's concurring opinion emphasized that **statutory duties (CrPC, PMLA)** enforce constitutional protections and must be followed to the letter.

PRIOR CCI APPROVAL IS MANDATORY BEFORE CoC APPROVAL OF RESOLUTION PLAN

Independent Sugar Corporation Ltd. v. Girish Sriram Juneja, 2025 INSC 124

Bench: Justice Hrishikesh Roy, Justice Sudhansu Dhulia, Justice SVN Bhatti (dissenting)

- **Facts:** AGI Greenpac's Resolution Plan for acquiring HNGIL was approved by CoC without prior Competition Commission of India (CCI) clearance. NCLAT upheld the plan. INSCO challenged.

- **Issues:** (i) Whether prior CCI approval is mandatory under Section 31(4) IBC; (ii) Whether NCLAT erred in treating it as directory; (iii) Validity of AGI Greenpac's Resolution Plan.
- **Held:** Supreme Court held **prior CCI approval is mandatory** before CoC votes on a plan. Approval without CCI clearance is **invalid**.
- **Key Ratio:**
 - *Section 31(4) of IBC* (as amended) mandates CCI approval before CoC approval if the plan involves a combination.
 - Legislative intent, supported by Combination Regulations and timelines under the Competition Act, confirms this requirement is **not optional**.
 - Allowing post-facto approval would defeat the **commercial wisdom** principle, as CoC would vote without full regulatory input.
 - Procedural lapses included failure to notify the target company (HNGIL) of modifications, violating *Regulation 25(1A)* of CCI's rules.
 - The Plan violated Sections 30(2)(e), 30(3), and 31 of the IBC and was **unenforceable**.
 - Matter remanded to NCLT for reconsideration of eligible plans.
- **Dissent (Justice SVN Bhatti):**
 - Argued for a **purposive interpretation**, stating that CCI approval before *adjudicating authority approval* suffices.
 - Emphasized **flexibility** in interpreting "prior to" to preserve CoC's commercial discretion and avoid delays in CIRP.
 - Warned that rigid interpretation could reduce bidder participation and defeat insolvency objectives.

PROMOTION CANNOT BE CLAIMED TO POSTS RESERVED FOR DIRECT RECRUITMENT

Jyostnamayee Mishra v. The State of Odisha, 2025 INSC 87 (20 January 2025)

Bench: Justice J.K. Maheshwari, Justice Rajesh Bindal

- **Issue:** Whether an employee can claim promotion to a post meant solely for direct recruitment, and whether internal circulars can substitute public advertisements for such posts.
- **Held:**

- *Promotion not allowed* to a post that is exclusively reserved for direct recruitment under Rule 5(1)(e) of the Orissa Subordinate Architectural Service Rules, 1979. Tracer post falls outside the purview of promotional channel (Rule 6).
- Internal circulars *cannot replace* public advertisements under Rule 7; such appointments violate Article 16 of the Constitution.
- *Negative equality* under Article 14 is impermissible. Wrongful earlier promotions do not entitle others to similar illegal treatment.
- **Key Citations:**
 - *Union Public Service Commission v. Girish Jayanti Lal Vaghela*, 2006 INSC 58
 - *R. Muthukumar v. TANGEDCO*, 2022 INSC 157
 - *Basawaraj v. Special Land Acquisition Officer*, 2013 INSC 551

SENIOR CITIZEN ENTITLED TO RECLAIM PROPERTY TRANSFERRED CONDITIONALLY

Urmila Dixit v. Sunil Sharan Dixit, 2025 INSC 20 (2 January 2025)

Bench: Justice Sanjay Karol, Justice Chudalayil T. Ravikumar

- **Issue:** Whether under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, a senior citizen can reclaim property conditionally transferred and seek eviction of the transferee.
- **Held:**
 - *Gift Deed cancelled* as the condition of maintenance attached to it was violated.
 - Authorities under Section 23 *have power* to direct eviction and return of possession to senior citizens.
 - The Act is *beneficial legislation* and must be liberally interpreted to fulfill its purpose.
- **Key Citations:**
 - *Sudesh Chhikara v. Ramti Devi*, 2022 INSC 1257
 - *K. H. Nazar v. Mathew K. Jacob*, 2019 INSC 1100