

**CUMULATIVE REPORT**  
**ON**  
**SENTENCING POLICY IN CRIMINAL CASES**  
**(1950-1960)**

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1. **STUDY OF CASES (78 in Nos.) by FALAKYAR ASKARI**  
**(LEVEL I)**

Sl. No.	Name of Case and Citation	Issues	Remarks (SC)
1.	<p><b>Jaswantrai Manilal Akhanev v. The State of Bombay</b></p> <p>[AIR 1956 SC 575]</p> <p><u>(Decided on: 04-05-1956)</u></p>	<p>Appellant convicted under Section 409, IPC by trial court;</p> <p>Sentenced to 3 months rigorous imprisonment and a fine of Rs. 201 or in default, further 6 weeks rigorous imprisonment.</p> <p>The Bombay High Court dismissed the appeal agreeing with the findings of the trial court.</p> <p><i>Appeal by Special Leave to the SC preferred by appellant.</i></p>	<p>Appeal dismissed by the Supreme Court.</p> <p>The sentence and conviction order was in full accord with the facts and circumstances of the matter and hence was upheld.</p> <p>(An omission in the charge neither affected the trial or the interest of justice materially nor did it occasion a failure of justice. Hence appeal dismissed.)</p>
2.	<p><b>Chikkarange Gowda and Ors. v. State of Mysore</b></p> <p>[AIR 1956 SC 731]</p> <p><u>(Decided on: 09-05-1956)</u></p>	<p>Appellants convicted of the offences under Sections 148, 302, 302 read with 34 and 149 of the IPC by the trial court.</p> <p>The High Court of Madras confirmed the convictions and sentences of the appellants as pronounced by the Court of Sessions, Mysore and dismissed their appeals.</p> <p><i>Appeal by Special Leave to the SC preferred by appellants.</i></p>	<p>No reason for interference with convictions and sentences of the appellants under Section 148, IPC; convictions under Section 302 read with Section 149, IPC or Section 302 read with Section 34, IPC were set aside; Appellant 1 acquitted of the charge under Section 302 IPC but convicted under Section 326, IPVC and sentenced to transportation for life; Appellants 2 and 4 were acquitted of all charges under IPC except Section 148, IPC; Conviction of Appellant 3 under Section 302, IPC upheld as the injury inflicted was sufficient to cause death in the ordinary course of nature.</p> <p>(The charges framed by the trial court gave no notice to the appellants that three of them had a separate common intention of killing the deceased, different from that of the other members of the unlawful assembly.</p>

			<p>The charge did not mention any such separate common intention, and on the finding arrived at by the learned Judges of the High Court with regard to the common object of the unlawful assembly, none of the members of the unlawful assembly had the intention to kill the deceased, nor did any of them know that the deceased was likely to be killed in prosecution of the common object of chastisement. Section 34 embodies a principle of joint liability in the doing of a criminal act, and the essence of that liability is the existence, of a common intention. In the case before us, the two appellants who have been held to be liable under Section 34 are appellant 1 and appellant 4, none of whom caused any fatal injury to the deceased.)</p> <p>The way in which the charge under Section 302 read with Sections 149 and 34 was framed gave the appellants no effective notice that they had to meet the case of a separate common intention of three persons, as distinct from the object of the other members of the unlawful assembly. In these circumstances the question was not whether a specific charge under Section 34 was or was not necessary. The point is that the appellant had no notice nor a reasonable opportunity of meeting a case that some of them had a separate common intention different from that of other members of the unlawful assembly. Therefore, the conviction of the appellants 1 and 4</p>
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			for an offence under Section 302 read with Section 34 cannot be sustained.
3.	<p><b>Haripada Dey v. The State of West Bengal and Anr.</b></p> <p>[AIR 1956 SC 757]</p> <p><u>(Decided on: 05-09-1956)</u></p>	<p>Appellant charged and convicted u/s 411, IPC by the Presidency Magistrate, Calcutta;</p> <p>Sentenced to rigorous imprisonment for 2 years.</p> <p>The Calcutta High Court dismissed the appeal confirming the conviction and sentence passed upon him.</p> <p>Appeal preferred to the SC by the appellant post grant of Certificate of fitness under Article 134(1)(c) of the Constitution of India.</p>	<p>Certificate of Appeal under Article 134(1)(c) rejected and appeal dismissed; bail bond cancelled and appellant to surrender his bail.</p> <p>The certificate for leave granted by the Calcutta High Court under Article 134(1)(c) of the Constitution of India was “no certificate at all” as the High Court had exercised the discretion too elaborately.</p> <p>(While the High Court could not remedy the absence of full and fair trial to the appellant, this cannot be a justification for granting a certificate of appeal under Article 134(1)(c)).</p>
4.	<p><b>Dharman v. State of Punjab</b></p> <p>[AIR 1957 SC 324]</p> <p><u>(Decided on: 13-09-1956)</u></p>	<p>Appellant charged with and convicted for murder u/s 302, IPC by the Court of Sessions, Rohtak.</p> <p>Sentenced to transportation for life.</p> <p>High Court of Punjab and Haryana dismissed the appeal thereby confirming the conviction and sentence of transportation for life.</p> <p><i>Appeal by Special Leave</i> to the SC preferred by appellant.</p>	<p>Conviction u/s 302, IPC set aside by the SC;</p> <p>Appellant convicted u/s 304, IPC, i.e., for culpable homicide not amounting to murder.</p> <p>In case where the question for decision is the nature of the offence deducible from proved facts, the matter is one of pure law and even if there has been no elucidation of the points with clarity in the courts below, the SC is not precluded from giving a decision as to the exact nature of the offence proved on a scrutiny of the findings. (When two parties, armed with sharp edged weapons, clash in course of a free fight to inflict injuries it cannot be</p>

			said that either of them acted in a cruel or unusual manner. As such the fourth exception to section 302, IPC is attracted.)
5.	<p><b>S. Swamirathnam v. State of Madras</b></p> <p>[AIR 1957 SC 340]</p> <p><u>(Decided on 14-09-1956)</u></p>	<p>Appellants tried for the offence of conspiracy to cheat members of public and for specific offences of cheating in pursuance of the conspiracy; The Court of Sessions acquitted appellant 1 while convicting of appellant 2 and 3 all charges framed; Convicted appellant appealed against the decision of the trial court; High Court set aside the acquittals.</p> <p><i>Appeal by Special Leave</i> to the SC preferred by appellant.</p>	<p>Appeals dismissed and convictions by the High Court confirmed; no reason for interference with convictions and sentences of the appellants as sufficient evidence to uphold conviction is on record.</p>
6.	<p><b>State of Madhya Pradesh v. K.P. Ghiara</b></p> <p>[AIR 1957 SC 196]</p> <p><u>(Decided on: 19-09-1956)</u></p>	<p>Respondent charged for offence under S. 408, IPC by the Magistrate, First Class, Nagpur; Objection to jurisdiction of the JMFC taken by the respondent held 'not sustainable';</p> <p>On an application to revise JMFC's order the Sessions Court, Nagpur held that the law applicable being Section 182, Cr.P.C., the Nagpur Court had jurisdiction to entertain the complaint;</p> <p>On a further revision to the Bombay High Court, the orders of the courts below were set aside on the ground that the proper court to try the case was the one at Bombay and the proceedings were, therefore, quashed.</p> <p><i>Appeal by Special Leave</i> to the SC preferred by appellant.</p>	<p>Appeal allowed by the SC; Order of the Bombay High Court (Nagpur Bench) set aside.</p> <p>Finding of the learned Judge of the Bombay High Court that the intention to misappropriate was formed at Bombay, is unsupported by any evidence on record and therefore, the decided cases on which the court placed reliance can have no application.</p> <p>(The germination of the animus of offence has to be shown to determine the place of misappropriation.)</p>

<p>7.</p>	<p><b>Mangal Singh and Ors v. State of Madhya Bharat</b></p> <p>[AIR 1957 sc 199]</p> <p><u>(Decided on: 19-09-1956)</u></p>	<p>Appellants tried and for offences under Section 302, IPC read with Section 34, Section 307, IPC read with Section 34, IPC and 324, IPC read with Section 34.</p> <p>Mangal Singh sentenced to death by the Sessions Court; All other appellants sentenced to transportation for life for the offence committed under Section 302 read with Section 34 and to ten years rigorous imprisonment for the offence committed under Section 307 IPC read with Section 34, IPC; Sentences to run concurrently.</p> <p>The High Court of Madhya Bharat altered the conviction of the appellants under this charge to one under Section 324 read with Section 34 and reduced the sentence to three years' rigorous imprisonment.</p> <p><i>Appeal by Special Leave to the SC preferred by appellants.</i></p>	<p>Appeal dismissed by the Supreme Court.</p> <p>The matter is concluded by the evidence of the two witnesses whose testimony was accepted by the Courts below and no substantial question has arisen in this appeal for this Court to interfere with the findings of fact arrived at by both the Courts below.</p> <p>(The proposition that when the two eye-witnesses to the occurrence are interested persons there should be corroboration of their evidence by independent witnesses cannot be of universal application).</p> <p>In the instant case, evidence of the eye-witnesses receives ample corroboration from the circumstances.</p>
<p>8.</p>	<p><b>G.A. Monterio v. The State of Ajmer</b></p> <p>[AIR 1957 SC 13]</p> <p><u>(Decided on: 21 09.1956)</u></p>	<p>Appellant charged with offences under Section 161, IPC for having accepted currency notes of value Rs. 150 as illegal gratification as a motive for securing a job for one person, under Section 5(1) (d) of Act II of 1947 with abusing his position as a public servant and obtaining for himself by corrupt or illegal means pecuniary advantage, under Section 420, IPC for having induced a person to deliver to him currency notes of the value of Rs. 150 by dishonest representation that he could secure a job for a person, by the Special Judge, State of Ajmer;</p>	<p>Appeal dismissed by the Supreme Court.</p> <p>Appellant rightly convicted on facts and circumstances of the case.</p> <p>(The true test in order to determine whether a person is an officer of the Government is: (a) whether he is in service or pay of the Government; and (b) whether he is entrusted with the performance of any public duty.)</p>



		<p>Trial court convicted the appellant with the offences under Section 161, IPC and Section 5(1) (d) of Act II of 1947; Acquitted of the charge under Section 420, IPC;</p> <p>Appeal preferred to the Judicial Commissioner, State of Ajmer by the appellant failed; Learned Judicial Commissioner granted to the appellant a certificate of fitness for appeal on two main grounds viz., (1) whether the appellant is an “officer” within the meaning of clause (9) of Section 21, IPC, and (2) whether the provisions of section 137 of the Railways Act excluded all railway servants from the definition of public servants except for purposes of Chapter IX, IPC.</p> <p>Appeal preferred to the SC by the appellant post grant of Certificate of fitness under Article 134(1)(c) of the Constitution of India.</p>	
9.	<p><b>Brij Bhukhan and Ors. v. The State of Uttar Pradesh</b></p> <p>[AIR 1957 SC 474]</p> <p><u>(Decided: 09-11-1956)</u></p>	<p>Appellants convicted by the Sessions Court under Section 302, IPC read with Section 149, Section 449, IPC read with Sections 149 and 147, IPC; Appellant Sheo Ram convicted under Section 323, IPC;</p> <p>Appellants sentenced to death by the Sessions Court;</p> <p>Allahabad High Court upheld their convictions; High Court affirmed the sentence of death in respect of the appellant Brij Bhukan; High Court reduced the sentence of death in</p>	<p>Appeal dismissed by the Supreme Court.</p> <p>(Evidence proved that the assault was brutal and premeditated arising out of deep rooted enmity.</p> <p>Merely because leniency is shown to some convicts in matter of sentence, it is no ground for reducing the sentence passed on the other convicts.)</p>

		<p>respect of other appellants to transportation for life.</p> <p><i>Appeal by Special Leave to the SC preferred by appellants.</i></p>	
<p><b>10.</b></p>	<p><b>Jumman and Ors v. The State of Punjab</b></p> <p><b>[AIR 1957 SC 469]</b></p> <p><u>(Decided on: 15-11-1956)</u></p>	<p>Appellants tried and convicted for offences under Section 302, IPC read with Section 149, IPC and for offence under Section 148, IPC; Two accused tried and convicted for offence under Section 307, IPC read with Section 34, IPC for attempt to murder;</p> <p>The Court of Sessions, finding all the accused guilty, sentenced 4 of the 6 accused to death and the remaining 2 to imprisonment for life for the offence under Section 302, IPC read with Section 149, IPC, and to imprisonment for five years for an offence under Section 307, IPC read with Section 34, IPC;</p> <p>Appeal preferred to the Punjab and Haryana High Court by the convicts; All appeals were heard together and by a judgment all the convictions were confirmed except for the sentence of death passed on the 4<sup>th</sup> accused which was reduced to imprisonment for life on account of his youth;</p> <p><i>Appeal by Special Leave to the SC preferred by appellants.</i></p>	<p>There was no unlawful assembly in which two convicts were members and that being the case they were acquitted of all the offences; With regard to the other four, convictions under Section 302, IPC was set aside but Exception 4 to Section 300, IPC applies and they were convicted under 304 (part 1), IPC. (In a case where a mutual conflict develops and there is no reliable and acceptable evidence as to how it started and as to who is the aggressor, it would be patently incorrect to assume private defence for both the sides. Such a situation would be a case of sudden fight and conflict and has to be dealt with under Section 300, Exception 4, IPC.)</p> <p>Though in an appeal under Special Leave the SC is bound by the finding of the fact arrived at by the High Court, in this case the HC has not dealt with the appeal as it should have, the SC proceeded to hear the appeal on 'evidence'.</p> <p>(Except giving a meagre narration and a summary of the evidence let in before the Session Court, the judgment of the High Court suffers from the infirmity that it does not seem to have exercised its independent judgment of the High Court and the reasons given towards</p>

			the end of the judgment are meagre and inconclusive.)
11.	<p><b>Kalua v. The State of Uttar Pradesh</b></p> <p>[AIR 1958 SC 180]</p> <p><u>(Decided on: 21-11-1956)</u></p>	<p>Appellant tried and convicted for being in possession of an unlicensed fire-arm under the Arms Act and for murder of the deceased by shooting him;</p> <p>Sentenced to death for the offence of murder; Sentenced to two years rigorous imprisonment under the Arms Act for the possession of unlicensed fire-arm.</p> <p>Appeal dismissed by the Allahabad High Court; Conviction and sentence upheld.</p> <p><i>Appeal by Special Leave</i> to the SC preferred by appellants.</p>	<p>Appeal dismissed by the Supreme Court.</p> <p>Appellants rightly convicted.</p>
12.	<p><b>Ram Chandra and Anr. v. State of Uttar Pradesh</b></p> <p>[AIR 1957 381]</p> <p><u>(Decided on: 26.11.1956)</u></p>	<p>Both the appellants convicted and sentenced for having committed various offences; Both appellants convicted of the offence under Section 302 of the IPC and sentenced until death;</p> <p>Allahabad High Court upheld the convictions and sentence by the Court of Sessions, Allahabad.</p> <p><i>Appeal by Special Leave</i> to the SC preferred by appellants.</p>	<p>Appeal dismissed subject to the following modifications in sentence: convictions and sentence against both appellants under Section 364 and Section 386, IPC taken with Sections 120-B and 34, IPC maintained; Convictions of both appellants under Section 302, IPC read with Section 34, IPC and Section 201, IPC read with Section 34, IPC and the sentence of death, and rigorous imprisonment for seven years there for, set aside and appellants acquitted of these charges; Their convictions and sentences in respect of the other charges are confirmed.</p>
13.	<p><b>Ratan Rai v. State of Bihar</b></p> <p>[AIR 1957 SC 373]</p>	<p>Appellants charged with having committed offences under Sections 435 and 436, IPC were tried by the Second</p>	<p>Appeal allowed; Matter remanded to the High Court to act in accordance with the provisions of Section 307(3),</p>

	<u>(Decided on: 30-01-1957)</u>	<p>Assistant Sessions Judge, Saran, Chapra, with the aid of a jury; The jury returned a majority verdict that both of them were guilty of the offences under those sections; Assistant Sessions Judge disagreed with the said verdict mad made a reference to the High Court of Judicature at Patna; The High Court over ruled the contentions which were urged before them in regard to the charge to the jury being defective and further held that the reference was, in the circumstances, not competent; Patna HC accepted the majority verdict and held the appellants guilty of the aforementioned offences.</p> <p><i>Appeal by Special Leave</i> to the SC preferred by appellants.</p>	<p>Cr.P.C.</p> <p>(SC held that the judgment of the HC accepting the majority verdict and convicting the appellants and sentencing them without considering the entire evidence was clearly wrong. According to the provisions of Section 307(3), Cr.P.C., the HC should have considered the entire evidence on record to come to a finding final.)</p>
14.	<p><b>Ramyed Rai and Ors. v. The State of Bihar</b></p> <p>[(1957) 27 AWR 485]</p> <p><u>(Decided on: 30-01-1957)</u></p>	<p>Appellants charged with having committed offences under Sections 435 and 436, IPC; Tried by the Second Assistant Sessions Judge, Saran, Chapra, with the aid of jury; The jury returned a majority verdict that both of them were guilty of the offences under those sections; Assistant Sessions Judge disagreed with the said verdict mad made a reference to the High Court of Judicature at Patna; The High Court over ruled the contentions which were urged before them in regard to the charge to the jury being defective and further held that the reference was, in the circumstances, not competent; Patna HC accepted the majority verdict and held the appellants guilty of the aforementioned offences.</p> <p><i>Appeal by Special Leave</i> to the SC</p>	<p>Appeal allowed; Matter remanded to the High Court to act in accordance with the provisions of Section 307(3), Cr.P.C.</p> <p>(SC held that the judgment of the HC accepting the majority verdict and convicting the appellants and sentencing them without considering the entire evidence was clearly wrong. According to the provisions of Section 307(3), Cr.P.C., the HC should have considered the entire evidence on record to come to a finding final.)</p>

		preferred by appellants.	
15.	<p><b>The State of Bihar v. Ram Naresh Pandey</b></p> <p>[AIR 1957 SC 389]</p> <p><u>(Decided on: 31-01-1957)</u></p>	<p>Prosecution launched against the appellant for the commission of an offence under Section 302, IPC read with Section 109, IPC (the act ascribed to him in the FIR being that he abetted the murder by reason of certain speeches and exhortations at meetings or group-talks the day previous to the murder.)</p> <p>Application for withdrawal as against the appellant was made when the matter was pending before the Magistrate in the Committal stage and before any evidence was actually taken; Magistrate issued the order of discharge.</p> <p>The High Court set aside the order of the trial court.</p> <p>Appeal preferred to the Supreme Court.</p>	<p>Appeal allowed; order of High Court set aside and order of the trial court restored.</p> <p>(The legal question that arises is whether where an application for withdrawal under Section 494, Cr.P.C. is made on the ground of insufficiency or meagreness of reliable evidence that is available, it is an improper exercise of discretion for the Court to grant consent before evidence is taken, if it was reasonably satisfied, otherwise, that the evidence, if actually taken, is not likely to result in conviction.)</p>
16.	<p><b>K.N. Mehra v. The State of Rajasthan</b></p> <p>[AIR 1957 SC 369]</p> <p><u>(Decided on: 11-02-1957)</u></p>	<p>Appellants charged and convicted under Section 379, IPC; Sentenced to simple imprisonment for 18 months and a fine of Rs. 750 with imprisonment in default of payment of fine for a further term of four months;</p> <p>Conviction and Sentence confirmed on appeal by the Sessions Judge and on revision by the High Court.</p> <p><i>Appeal by Special Leave</i> to the SC preferred by appellant.</p>	<p>Appeal dismissed; sentence modified;</p> <p>While maintaining the conviction of the appellant, sentence of imprisonment against him reduced to the period already undergone; Sentence of fine and sentence of imprisonment in default thereof shall stand.</p>

<p>17.</p>	<p><b>Nisar Ali v. The State of Uttar Pradesh</b></p> <p>[AIR 1975 SC 366]</p> <p><u>(Decided on: 14-02-1957)</u></p>	<p>Appellant tried and acquitted for offence under Section 302, IPC by the Sessions Judge , Bareilly;</p> <p>State took an appeal to the High Court; Allahabad High Court reversed the judgment of the Sessions Court and convicted the appellant under Section 302, IPC; HC sentenced the appellant to ‘transportation for life’.</p> <p><i>Appeal by Special Leave</i> to the SC preferred by appellant.</p>	<p>Appeal dismissed;</p> <p>The findings and judgment of the High Court upheld.</p>
<p>18.</p>	<p><b>The State of Uttar Pradesh v. Mohammed Sayeed</b></p> <p>[AIR 1957 SC 587]</p> <p><u>(Decided on: 26-03-1957)</u></p>	<p>Accused prosecuted under Section 379, IPC and was released on bail; Respondent along with one other person stood surety for him, having executed surety bonds under Section 499, Cr.P.C., undertaking to produce the accused Yasin before the Court to answer the charge and to forfeit Rs. 500 each to King Emperor Qaisar-e-Hind as a penalty if they failed to do so; Accused absconded; All attempts to secure his presence before the court were of no avail; Consequently notices were issued under Section 514, Cr.P.C. to show cause why their bonds should not be forfeited; The magistrate, after giving the matter his consideration, ordered their bonds to be forfeited to the extent of Rs. 300 each; Respondent appealed to the Sessions Judge of Gonda who dismissed the appeal;</p> <p>Dissatisfied with the orders of the Magistrate and the Sessions Judge, the respondent filed a criminal revision in the High Court; Application allowed</p>	<p>Appeal dismissed;</p> <p>The findings and judgment of the High Court upheld.</p>

		<p>and order of the Magistrate and the Sessions Court set aside;</p> <p>Appeal preferred to the SC by the appellant post grant of Certificate of fitness.</p>	
19.	<p><b>Sarwan Singh Rattan Singh v. State of Punjab</b></p> <p>[AIR 1957 SC 637]</p> <p><u>(Decided on: 10-04-1957)</u></p>	<p>Appellant and two others were charged, tried and convicted with having committed an offence under Section 302, IPC by the Additional Sessions Judge, Ludhiana;</p> <p>All accused sentenced with death on the basis of approver's evidence and confession made by one of the accused;</p> <p>On appeal, the Punjab and Haryana High Court upheld the order of the trial court as against him and one other accused while setting aside the conviction as regards the third accused;</p> <p><i>Appeal by Special Leave</i> to the SC preferred by appellant.</p>	<p>Appeal allowed;</p> <p>Order of conviction and sentence passed against the appellant set aside; Appellant acquitted and discharged.</p> <p>(Evidence relied upon for conviction not reliable and unimpeachable; Approver's evidence must show that he was a reliable witness and must receive sufficient corroboration; Commission of an offence must be proved beyond reasonable doubt.)</p>
20.	<p><b>Vadivelu Thevar v. The State of Madras</b></p> <p>[AIR 1957 SC 614]</p> <p><u>(Decided on: 12-04-1957)</u></p>	<p>Appellants charged with an offence under Section 302, IPC;</p> <p>First appellant convicted and sentenced to death on the sole testimony of a witness; Second appellant convicted and sentenced to five years of rigorous imprisonment on the sole testimony of a witness;</p> <p>Madras High Court upheld the judgment passed by the Court of Sessions, East Tanjore Division at Nagapattinam;</p> <p><i>Appeals by Special Leave</i> to the SC</p>	<p>Appeal dismissed;</p> <p>The findings and judgment of the High Court upheld.</p>

		preferred by appellants.	
21.	<p><b>Gurbachan Singh v. State of Punjab</b></p> <p>[AIR 1957 SC 623]</p> <p><u>(Decided on: 24-04-1957)</u></p>	<p>Institution of proceedings under Section 19(f), Arms Act was on 30<sup>th</sup> January 1956, whereas the committal proceedings to offence under Section 302, IPC were begun on 3<sup>rd</sup> December 1955; Trial for offence under Section 19(f) ended by conviction of the accused on 16 March 1956, by which he was sentenced to undergo nine months rigorous imprisonment; Commitment proceedings ended on 3<sup>rd</sup> April 1956, though the first witness for the prosecution had been examined on 3<sup>rd</sup> December 1955; Appeal against conviction under Section 19 (f) of the Arms Act was pending before the Additional Sessions Judge of Ferozepur when the murder trial commenced; Ld. Sessions Judge found the appellant guilty of the offence of murder and sentenced him to the extreme penalty of the law on 1<sup>st</sup> August 1956;</p> <p>In appeal to the High Court of Punjab, along with the Reference under Section 374 of the Code of Criminal Procedure, death sentence was confirmed, with a slight modification regarding the sentence under the minor charges;</p> <p><i>Appeals by Special Leave</i> to the SC preferred by appellants (Special leave limited to the question whether the statements taken from the witnesses under Section 161 Cr.P.C., in the course of investigation in the connected</p>	<p>Appeal dismissed;</p> <p>No prejudice has caused to the accused by his not having been supplied with the statements of the witnesses recorded by the police during the investigation of the Arms Act case, when the Sessions trial was going on.</p>



		case under the Arms Act, should/should not have been supplied to the accused for the purpose of his defence in the trial and whether the result of the trial has been materially affected thereby.)	
22.	<p><b>Sardul Singh Caveeshar v. The State of Bombay</b></p> <p>[AIR 1957 SC 747]</p> <p>(Decided on: 23-05-1957)</p>	<p>Four appellants along with one another (since acquitted) were committed for trial in the Court of Sessions of Greater Bombay on charges of conspiracy to commit criminal breach of trust of the funds of an insurance company and in pursuance of the said conspiracy of having committed criminal breach of trust, some of them being directors and agents of the said company; They were alternatively charged for commission of the offence of criminal breach of trust by some of them as directors and the others for abetting the commission of the criminal breach of trust committed by the directors; Trial before the Sessions judge was with the aid of a jury;</p> <p>All except Jhaveri found guilty; Verdict of the jury accepted by the Sessions Judge;</p> <p>Appellant Sardul Singh and one other sentenced to rigorous imprisonment for three years and a fine of Rs. 2500; Two others sentenced to rigorous imprisonment for five years and a fine of Rs. 5000;</p> <p><i>Appeals by Special Leave to the SC preferred by appellants.</i></p>	<p>Appeals dismissed;</p> <p>No sufficient reason for interference in special leave with the convictions based on the acceptance by the trial Judge of the verdict of the jury.</p>

<p>23.</p>	<p><b>Prakash Chandra Pathak v. State of Uttar Pradesh</b></p> <p>[AIR 1960 SC 195]</p> <p><u>(Decided on: 10-07-1957)</u></p>	<p>High Court upheld the conviction of the appellant for the double murder of his mother, aged about 65 yrs, and his infant son, aged about four and half yrs, by the trial court under Section 302, IPC; Also convicted the appellant under Section 380, IPC for the theft of his mother's jewellery;</p> <p>Sentenced the appellant to death under Section 302, IPC; Also sentenced him for two years rigorous imprisonment under Section 380, IPC.</p> <p><i>Appeal by Special Leave</i> to the SC preferred by appellant.</p>	<p>Appeal dismissed;</p> <p>No ground made out for differing from the conclusions arrived at by the courts below; Facts and circumstances proved in the instant case establish the guilt of the appellant beyond all reasonable doubt.</p>
<p>24.</p>	<p><b>Narayan Rao v. The State of Andhra Pradesh</b></p> <p>[AIR 1957 SC 737]</p> <p><u>(Decided on: 15-07-1957)</u></p>	<p>Appellant tried by Ld. Sessions Judge for the offence under Section 302, IPC; Along with appellant, three other persons, said to be a close friend of the other accused, were also tried under Sections 302 read with Sections 34 and 109 of the Indian Penal Code;</p> <p>Appellant sentenced to death; The remaining were sentenced to imprisonment for life;</p> <p>On appeal by the appellant conviction and sentence affirmed by the High Court of Judicature of Andhra Pradesh and on reference by the Ld. Sessions Judge; Appeals of the other convicts heard along with the appeal preferred by the appellant and by a common judgment, the HC dismissed all the appeals and confirmed the convictions and sentences passed against all the four accused persons.</p>	

		<p><i>Appeal by Special Leave</i> to the SC preferred by appellant (Main question for determination in this appeal by special leave is whether and, if so, how far non-compliance with the provisions of Sections 173(4) and 207A(3), Cr.P.C., has affected the legality of the proceedings and the trial resulting in the conviction of the appellant.)</p>	
25.	<p><b>Mobarik Ali Ahmed</b> [AIR 1957 SC 857] <u>(Decided on: 06-09-1957)</u></p>	<p>Appellant convicted by Ld. Presidency Magistrate, Third Court, Esplanade, Bombay, for the offence of cheating under Section 420, IPC read with Section 34, IPC on three counts;</p> <p>Sentenced by the Magistrate to 2 years rigorous imprisonment and fine of Rs. 1,000 on the first count, to 22 months rigorous imprisonment and a fine of Rs. 1000 on the second count, and 2 months rigorous imprisonment on the third count; Directed that the substantive sentences on the second and third counts to run concurrently;</p> <p>Convictions and sentences have been confirmed on appeal by the Bombay High Court;</p> <p><i>Appeal by Special Leave</i> to the SC preferred by appellant.</p>	<p>Appeal dismissed;</p> <p>(Even on the assumption that the appellant has ceased to be an Indian citizen and was a Pakistani national at the time of the commission of the offence, he must be held guilty and punished under the Indian Penal Code notwithstanding his not being corporeally present in India at the time.)</p>
26.	<p><b>Bakshish Singh v. The State of Punjab</b> [AIR 1957 SC 904] <u>(Decided on: 17-09-1957)</u></p>	<p>Appellants tried and acquitted of the offence under Section 302, IPC read with Section 34, IPC;</p> <p>Against this acquittal, the State took an appeal to the High Court; High Court reversed the order of acquittal;</p>	<p>Appeal allowed;</p> <p>(HC kept in view correct principles governing appeals against acquittals and have rightly applied them to the circumstances of this case.</p> <p>In Punjab, the language used in the</p>

		Appeal preferred to the SC by the appellant post grant of Certificate of fitness.	subordinate Courts and that employed by the police for recording of statements has always been Urdu and the recording of the dying declaration in Urdu cannot be a ground for saying that the statement does not correctly reproduce what was stated by the declarant.)
27.	<p><b>Subramania Goundan v. The State of Madras</b></p> <p>[AIR 1958 SC 66]</p> <p><u>(Decided on: 17-09-1957)</u></p>	<p>Court of Sessions, Coimbatore Division convicted four accused of the offence under Section 302, IPC on two counts and of the offence under Section 307 on one count;</p> <p>Sentenced to death on first two counts and sentenced to rigorous imprisonment for two years on count three;</p> <p>High Court of Madras confirmed the conviction and sentence by the trial court;</p> <p><i>Appeal by Special Leave</i> to the SC preferred by appellant.</p>	<p>Appeal dismissed; Conviction and sentence by the HC upheld.</p> <p>(Whether a retracted confession may form basis of conviction? – Court has to take into consideration not only the reasons given for making the confession or retracting it but the attending facts and circumstances surrounding the same; <i>No absolute rule that a retracted confession cannot be acted upon unless the same is corroborated materially.</i> If the reasons given by an accused person for retracting a confession are on the face of them false, the confession may be acted upon as it stands and without any corroboration.)</p>
28.	<p><b>Kushal Rao v. The State of Bombay</b></p> <p>[AIR 1958 SC 22]</p> <p><u>(Decided on: 25-09-1957)</u></p>	<p>Court of Sessions convicted the appellant for offence under Section 302, IPC for premeditated murder of the deceased;</p> <p>Appellant sentenced to death by the Court of Sessions;</p> <p>The Bombay High Court, Nagpur Bench upheld the conviction and sentence by the trial court;</p>	<p>Appeal dismissed;</p> <p>(Appeal involved a question of fact as to sufficiency of evidence for conviction as not corroborated – conviction of the appellant was based on dying declaration of the deceased which was neither supported by any evidence nor corroborated;</p> <p>Section 32(1) makes it amply clear that a dying declaration can be taken</p>

		Appeal preferred to the SC by the appellant post grant of Certificate of fitness.	as material for conviction. No rule that a dying declaration is necessarily required to be supported by evidences or required to be corroborated.)
29.	<b>State of Madras v. A. Vaidyanatha Iyer</b>  [AIR 1958 SC 61]  (Decided on: 26-09-1957)	Special Judge, Coimbatore convicted the respondent of an offence under Section 161, IPC;  Respondent sentenced to 6 months imprisonment;  Madras High Court reversed the judgment thereby acquitting the respondent;  Appeal preferred to the SC by the appellant post grant of Certificate of fitness.	Appeal allowed;  Judgment of the High Court set aside; Trial court's judgment restored convicting the respondent of the offence charged with; Respondent ordered to surrender his bail.  (Remark by SC: The High Court has acted perversely or otherwise improperly. The evidence and the circumstances lead to the conclusion that the transaction was not one of loan but illegal gratification.)
30.	<b>Ramgopal Ganpatrai Ruia and Anr. v. The State of Bombay</b>  [AIR 1958 SC 97]  (Decided on: 08-10-1957)	Presidency Magistrate of Bombay decided to try case himself on seven mutilated charges framed by him; Contention of state: Case fit for committal to the Court of Sessions;  On appeal, Bombay High Court returned proceedings to Ld. Magistrate after reframing charges;  Magistrate discharged the accused;  High Court set aside the order of the Presidency Magistrate and committed the matter to the Court of Sessions;  <i>Appeal by Special Leave</i> to the SC preferred by appellant.	Appeal dismissed;  (Question for determination: whether the HC has power, and if so, the extent of such power, to revise an order of discharge passed by a Presidency Magistrate.  SC observed that HC was right in interfering as the Magistrate had committed a material error in discharging the accused and had undervalued the evidence.)
31.	<b>Ramaswamy Nadar v. The State of Madras</b>  [AIR 1958 SC 56]	Appellant charged with offence under Section 420, IPC;  Presidency Magistrate acquitted the	Appeal allowed;  Order passed by the High Court set aside and the order of acquittal passed

	<p><u>(Decided on: 11-10-1957; 21-10-1957)</u></p>	<p>appellant;</p> <p>Madras High Court set aside the order of acquittal passed by the fourth Presidency Magistrate at Madras on appeal by the State; Court allowed the appeal but did not convict the appellant under Section 420, IPC; HC convicted the appellant for offence under Section 403, IPC;</p> <p>Appellant sentenced to 2 yrs of rigorous imprisonment;</p> <p><i>Appeal by Special Leave</i> to the SC preferred by appellant.</p>	<p>by the trial court restored.</p> <p>(HC did not reverse any of the findings of fact by the Ld. Magistrate. It has only differed on the inference to be derived from those findings. HC erred in drawing conclusion from established facts.)</p>
<p>32.</p>	<p><b>Kapil Deo Shukla v. The State of Uttar Pradesh</b></p> <p><b>[AIR 1958 SC 121]</b></p> <p><u>(Decided on: 14-10-1957)</u></p>	<p>Appellant charged with commission of offence under Sections 408 and 477A, IPC; Court of Sessions acquitted the appellant;</p> <p>Allahabad High Court set aside the order of acquittal by the Court of Sessions; HC convicted the appellant under the sections aforesaid, and sentenced him to rigorous imprisonment for four years and a fine of ten thousand rupees, in default of payment further rigorous imprisonment for one year, under Section 408, IPC, and to rigorous imprisonment for four years under Section 477A, IPC; the sentences of imprisonment under the two sections to run consecutively.</p> <p>Prayer for a certificate of fitness for appeal to this Court was refused;</p> <p><i>Appeal by Special Leave</i> to the SC preferred by appellant.</p>	<p>Appeal allowed;</p> <p>Conviction and sentences set aside; High Court to decide if it is fit case for de-novo trial in case the State Govt. moves the HC.</p> <p>(Jury empanelled and which heard the matter was incompetent.)</p>

<p>33.</p>	<p><b>Indu Bhusan Chatterjee v. The State of West Bengal</b> [AIR 1958 SC 148] <u>(Decided on: 26-11-1957)</u></p>	<p>Appellant convicted of offence under Section 5(2) of the Prevention of Corruption Act and under Section 161, IPC by the trial court;</p> <p>Sentenced to rigorous imprisonment for three months and fine of Rs. 500. In default of fine further rigorous imprisonment for one month; No separate sentence under Section 5(2) of the Act;</p> <p>Appeal to HC dismissed; Sentence upheld;</p> <p>Appeal preferred to the SC by the appellant post grant of Certificate of fitness.</p>	<p>Appeal dismissed; Conviction and sentence upheld.</p>
<p>34.</p>	<p><b>G.X. Francis and Ors. v. Banke Bihari Singh and Anr.</b> [AIR 1958 SC 309] <u>(Decided on: 04-12-1957)</u></p>	<p>Accused charged with offence under Sections 501 and 502, IPC read with Section 34, IPC; Accused persons scattered over India;</p> <p>Application under Section 527, Cr.P.C. for transfer of criminal case from MP to some other State and request that the case be tried by a Superior Court;</p> <p>Ground for transfer: Trying Magistrate biased; Appellant also apprehended danger of personal violence if the trial was held in any Subordinate Court and the complainant entertains a similar apprehension.</p>	<p>Transfer of case allowed; Prayer that the case be tried by Superior Court rejected;</p> <p>(Local atmosphere was not conducive to a fair and impartial trial in view of surcharged tension in the area.)</p>
<p>35.</p>	<p><b>Virsa Singh v. The State of Punjab</b> [AIR 1958 SC 465] <u>(Decided on: 11-03-1958)</u></p>	<p>Appellant tried with five others under Sections 302/149, 324/149 and 323/149, IPC; Appellant also charged for offence under Section 302, IPC;</p>	<p>Appeal dismissed; Conviction and sentence altered; Conviction under Section 302 altered to one under Section 304, Part I –</p>

		<p>Appellant convicted of the offence under Section 302, IPC; Others were acquitted of the charge of murder by the first court but were convicted under Sections 326, 324, 323 read with Section 149, IPC;</p> <p>Appellant convicted and sentenced to imprisonment for life;</p> <p>On appeal to the High Court all were acquitted except appellant; Conviction of Appellant upheld by the HC;</p> <p><i>Appeal by Special Leave</i> to the SC preferred by appellant (leave limited to the question: On the finding accepted by the Punjab High Court what offence is made out as having been committed by the petitioner.)</p>	<p>Custodial sentence of 10 years to suffice.</p> <p>(Witness being close relative – Testimony of such witness cannot be discarded on ground that he is partisan witness; Ocular account found credible and trustworthy – Medical opinion pointing to alternative possibilities – Cannot be accepted as conclusive.)</p>
36.	<p><b>Kapur Chand Pokhraj v. The State of Bombay</b></p> <p>[AIR 1958 SC 993]</p> <p><u>(Decided on: 24-03-1958)</u></p>	<p>Accused charged with offence under Section 24(1)(b) of the Bombay Sales Tax Act, 1946;</p> <p>Trial Court convicted and imposed fine on the accused;</p> <p>Bombay High Court upheld the conviction and enhanced the sentence to rigorous imprisonment for a period of one month in addition to the fine already imposed;</p> <p><i>Appeal by Special Leave</i> to the SC preferred by appellant.</p>	<p>Appeal dismissed;</p> <p>Sentence modified to simple imprisonment for one month simple imprisonment;</p> <p>Magistrate improperly exercised his discretion; The High Court was certainly within its right to enhance the sentence. High Court committed a mistake in awarding a sentence of rigorous imprisonment for a period of one month, which it is not entitled to do under the provisions of Section 24(1) of the Act. Under that section the Court had jurisdiction only to give a maximum sentence of simple imprisonment extending to 6 months but had no power to impose sentence of rigorous imprisonment.</p>



<p>37.</p>	<p><b>B.N. Srikantiah and Ors. v. The State of Mysore</b></p> <p>[AIR 1958 SC 672]</p> <p><u>(Decided on: 14-04-1958)</u></p>	<p>All of the six accused were charged with being members of an unlawful assembly, the common object of which was to murder the deceased. The appellants along with Accused No. 5 and Accused No. 6 were further charged with committing murder of the deceased by intentionally causing his death; The charge does not contain the words “in furtherance of the common intention of all” but short of that the charge is as near them as it could be. Accused No. 1 was further charged with abetting the offence of murder; Trial Court acquitted all the accused of the charge under Section 143, IPC and accused Nos. 5 &amp; 6 of the charge under section 302 but he convicted Accused No. 1 under Section 302/109, IPC and the Appellants under section 302, IPC and sentenced them all to transportation for life;</p> <p>High Court acquitted accused No. 1 of abetment of murder after the matter was referred to a third judge under Section 429 of the Cr.P.C. as there was a difference of opinion between the two judges of the Division Bench hearing the appeal and thus the case of abetment set up by the prosecution failed; HC upheld the acquittal of accused Nos. 5 and 6; Charge of unlawful assembly of which the common object was the murder of the deceased also failed because of the acquittal of accused No. 1, accused No. 5 and accused No. 6 thus leaving only the appellants; Their conviction for an</p>	<p>Appeal dismissed;</p>
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		<p>offence under section 302, IPC and the sentence of transportation was upheld;</p> <p>Appeal preferred to the SC by the appellant post grant of Certificate of fitness.</p>	
38.	<p><b>Ram Prakash v. The State of Punjab</b></p> <p>[AIR 1959 SC 1]</p> <p><u>(Decided on: 02-09-1958)</u></p>	<p>Appellant and one other tried for the murder of the deceased;</p> <p>Appellant convicted and sentenced to death while the other was sentenced to imprisonment for life;</p> <p>Appellant and the other accused appealed to the Punjab and Haryana High Court; Appeals dismissed and conviction and sentence upheld;</p> <p><i>Appeal by Special Leave</i> to the SC preferred by appellant only.</p>	<p>Appeal dismissed;</p> <p>(Evidentiary value of the retracted confession of the co-accused with respect to the Indian Evidence Act, 1872 was considered; It was held that evidence in the case confession was voluntary and true and was corroborated in material particulars both concerning the general story in the confession concerning the crime and the appellants connection with crime. Hence retracted statement admissible.)</p>
39.	<p><b>Bipin Behari Sarkar and Anr. v. The State of West Bengal</b></p> <p>[AIR 1959 SC 13]</p> <p><u>(Decided on: 19-09-1958)</u></p>	<p>Appellants convicted for offence under Section 302, IPC; Sentenced both appellants to death;</p> <p>Appellants appealed to the Calcutta High Court while the Sessions Judge made a reference for the confirmation of the death sentence passed by him. The High Court found the appellants guilty under Section 302/34, IPC. It accordingly confirmed the sentence of death imposed on the appellants by the Session Judge;</p>	<p>Appeals dismissed;</p> <p>High Court rightly found the appellants guilty.</p>
40.	<p><b>Ratan Gond v. The State of Bihar</b></p> <p>[AIR 1959 SC 18]</p> <p><u>(Decided on: 19-09-1958)</u></p>	<p>Appellant tried on a charge under section 302, IPC he was convicted and sentenced to death by the Ld. Additional Judicial commissioner of Ranchi in the State of Bihar; Ld.</p>	<p>Appeal Dismissed (appeal without any merit.)</p>

		<p>Additional Judicial Commissioner submitted the record to the High Court of Patna for confirmation of the sentence;</p> <p>Appeal preferred to the High Court by the appellant; Appeal and the reference under Section 374, Cr.P.C., were heard together by a Division Bench of the High Court and it accepted the reference and dismissed the appeal thereby confirming the sentence of death passed upon the appellant;</p> <p><i>Appeal by Special Leave</i> to the SC preferred by appellant only.</p>	
41.	<p><b>Bhogilal Chunilal Pandya v. The State of Bombay</b></p> <p>[AIR 1959 SC 356]</p> <p><u>(Decided on: 04-11-1958)</u></p>	<p>Appellant tried for committing criminal breach of trust; Trial conducted with the help of jury; Solicitor of the company prepared notes of attendance and deposed as evidence to the court whereas the notes were produced to corroborate the testimony; Trial court admitted the notes in evidence despite objections; Jury returned a verdict of not guilty by a majority of 5:3; Trial judge thereupon made a reference to the High Court under Section 307, Cr.P.C;</p> <p>High Court went through the entire evidence and convicted the appellant;</p> <p><i>Appeal by Special Leave</i> to the SC preferred by the appellant.</p>	<p>Appeal dismissed.</p> <p>(The word 'statement' used in Section 157 of the Evidence Act means 'something that is stated' and the element of communication to another person is not included in it. As such the notes of attendance prepared by the solicitor of the company were statements within the meaning of Section 157 and admissible in evidence.)</p>
42.	<p><b>Mizaji and Anr. v. The State of U.P.</b></p> <p>[AIR 1959 SC 572]</p>	<p>Appellants tried and convicted for offence under Sections 302, 147 and 148, IPC by the trial court; All appellants except one sentenced to</p>	<p>Appeals dismissed;</p> <p>(Courts below rightly convicted the accused persons and awarded proper sentence.)</p>

	<p><u>(Decided on: 18-12-1958)</u></p>	<p>imprisonment for life; One convict sentenced to death; Two appellants convicted under Section 148, IPC and sentenced to 3 years' rigorous imprisonment and the rest who were armed with lathis were convicted under Section 147, IPC and sentenced to 2 years' rigorous imprisonment; All sentences to run concurrently;</p> <p>High Court upheld the conviction and sentence; HC held that act done in furtherance of common object;</p> <p><i>Appeal by Special Leave</i> to the SC preferred by the appellants.</p>	
43.	<p><b>Kadiri Kunhammad v. The State of Madras</b></p> <p>[AIR 1960 SC 661]</p> <p><u>(Decided on: 27-01-1959)</u></p>	<p>Appellant tried for offence under Section 409, 471 and 477A IPC;</p> <p>Acquitted of the charge under Section 471, IPC; Sentenced to rigorous imprisonment for 4½ years for offence under Section 409, IPC and also to pay a fine of Rs. 1,000 or in default to suffer rigorous imprisonment for a further period of six months; For the offence under Section 477A, IPC he was sentenced to undergo rigorous imprisonment for one year; sentences to run concurrently.</p> <p>High Court of Madras upheld the conviction and sentence award by the trial court for the offence under Section 407 and acquitted the appellant of the offence under Section 477A;</p> <p><i>Appeal by Special Leave</i> to the SC preferred by the appellant.</p>	<p>Appeal dismissed; Order of conviction and sentence passed by the High Court confirmed.</p>

<p>44.</p>	<p><b>Mulk Raj v. The State of U.P.</b> [AIR 1959 SC 902] <u>(Decided on: 20-02-1959)</u></p>	<p>Court of Sessions convicted the appellant under Sections 302 and 394, IPC and sentencing him to death and 10 years' rigorous imprisonment respectively;</p> <p>Allahabad High Court upheld the conviction and sentence;</p> <p><i>Appeal by Special Leave</i> to the SC preferred by the appellant.</p>	<p>Appeal dismissed</p> <p>(Circumstantial evidence and the extra judicial confession made by the Appellant leave no room for doubt that the appellant had stabbed the deceased.</p> <p>An extrajudicial confession, if voluntary, can be relied upon by the Court along with other evidence in convicting the accused. The confession will have to be proved just like any other fact. The value of the evidence as to the confession just like any other evidence, depends upon the veracity of the witness to whom it is made. It is true that the Court requires the witness to give the actual words used by the accused as nearly as possible, but it is not an invariable rule that the Court should not accept the evidence, if not the actual words but the substance were given. It is for the Court having regard to the credibility of the witness, his capacity to understand the language in which the accused made the confession, to accept the evidence or not.)</p>
<p>45.</p>	<p><b>Shibraj Singh and Ors. v. The State of West Bengal and Anr.</b> [AIR 1959 SC 1173] <u>(Decided on: 14-04-1959)</u></p>	<p>Court of Sessions tried the accused persons and acquitted for offence under Section 302 and 326, IPC;</p> <p>The jury brought a unanimous verdict of not guilty against all the accused on all the charges. The trial Judge was of the view that the verdict was not against the weight of evidence and he, therefore, accepted it and acquitted all the accused;</p>	<p>Appeal allowed and order of the High Court set aside.</p> <p>(It would be difficult to state as a matter of law that wherever, in a murder case tried by a jury, the accused makes a plea under Section 80, IPC, the presiding judge must invariably refer to Sections 304A and 33M. In the present case, even if the prosecution case is believed and the</p>

		<p>On appeal by the aggrieved party, the HC accepted the view that it was the duty of the trial Judge to explain not only Section 80 to the jury, once the defence of accident was raised, but also to explain Sections 304A and 338 as the jury might have come to the conclusion that an offence under Section 304A or Section 338 had been made out.; The High Court, therefore, held that there was misdirection in the summing up; It also held that in the circumstances it could not be said that the erroneous direction had not resulted in a perverse verdict. In consequence, it held that there was failure to justice and remanded the case for a fresh and fair trial against all the three accused.</p> <p><i>Appeal by Special Leave</i> to the SC preferred by the appellant.</p>	<p>defence plea of accident is rejected, the result would be conviction either Under Section 302 or Section 326 and there would be no scope for the application of Sections 304A and 338. It cannot be accepted that because the accused had put forward a case of accident it was incumbent upon the trial judge to explain Sections 304A and 338 of the IPC to the jury and in so far as he failed to do so there was misdirection which resulted in a perverse verdict occasioning a failure of justice. It cannot be accepted that merely because the accused was carrying a loaded gun he was doing a rash act.)</p>
46.	<p><b>Charan Singh v. The State of Uttar Pradesh</b></p> <p>[AIR 1967 SC 520]</p> <p><u>(Decided on: 14-05-1959)</u></p>	<p>Court of Sessions tried and convicted the appellant of the offence under Section 302 IPC; Appellant sentenced to death; Court acquitted the appellant of the offence under Section 380, IPC; Reference to the HC for confirmation of sentence and appeal by the appellant to the HC; Appeal dismissed and reference accepted to uphold the conviction and sentence;</p> <p>Appeal preferred to the SC by the appellant post grant of Certificate of fitness.</p>	<p>Appeal dismissed; No ground for interference with the with the conviction and sentence of the appellant.</p>
47.	<p><b>P.R. Chowdhary and S. Gangoli v. The State of U.P.</b></p>	<p>Appellant charged with commission of offence under Section 120B, IPC and Section 5(2) read with Sections 5(1)(c)</p>	<p>Appeals dismissed; Sentence and conviction upheld.</p> <p>(What sub-section (4) of Section 137</p>

	<p><b>[1959 (2) AnWR 192]</b></p> <p><u>(Decided on: 14-05-1959)</u></p>	<p>and 5(1)(d) of the P.C. Act;</p> <p>Court of Sessions convicted the accused persons of the said offences and sentenced Appellant No. 1 to suffer rigorous imprisonment for three years and Appellant No. 2 to suffer rigorous imprisonment for two years;</p> <p>This order of conviction and sentence was challenged by the Appellants by preferring appeals in the High Court of Judicature at Allahabad. These appeals, however, failed and the High Court upheld the conclusions of the learned trial judge;</p> <p><i>Appeal by Special Leave</i> to the SC preferred by the appellant.</p>	<p>of Indian Railways Act, 1890 provides is that if a railway servant is charged for an offence under the IPC and the said offence is outside Ch. IX of that Code he cannot be treated as a public servant. This sub-section does not purport, or intend, to make any provision in respect of offences which are outside the Penal Code. In respect of such offences neither Sub-section (1) nor Sub-section (4) of the Railways Act would apply and the question as to whether railway servants fall within the mischief of the Prevention of Corruption Act, must be decided in the light of the provisions of the said Act itself. There can be no doubt that the effect of Section 2 of Prevention of Corruption Act is that the status of accused person has to be determined by the application of Section 21 of the IPC as if the said section had been included in the Act. The contention that because Section 2 of the Act refers to Section 21 of the IPC the bar created by Section 137(4) of the Railways Act would inevitably come into operation is unsound. The said bar can be invoked only if the status of the accused person is being determined for any purposes of the Code other than those of Ch. IX. In the present case the main offences charged are under the Act and not under the Code and so Section 137(4) is inapplicable.)</p>
<p><b>48.</b></p>	<p><b>C.S.D. Swamy v. The State</b></p> <p><b>[1960 Cri LJ 131]</b></p>	<p>Trial court convicted the appellant under Section 5(2) of the Prevention of Corruption Act;</p>	<p>Appeal dismissed (Finding of the trial court and High Court is correct.)</p>

	<u>(Decided on: 21-05-1959)</u>	<p>Sentenced the appellant to 6 months' rigorous imprisonment;</p> <p>Punjab and Haryana High Court affirmed and upheld the conviction and sentence of the trial court;</p> <p><i>Appeal by Special Leave</i> to the SC preferred by the appellant.</p>	
49.	<p><b>Vaikuntam Chandrappa and Ors. v. State of Andhra Pradesh</b></p> <p>[AIR 1969 SC 1340]</p> <p><u>(Decided on: 14-08-1959)</u></p>	<p>Four appellants and one other were convicted by the Court of Sessions under Section 302, IPC read with Section 34, IPC;</p> <p>All five convict sentenced to death;</p> <p>All five preferred separate appeals to the High Court; One appeal allowed while appeal of four appellants dismissed;</p> <p><i>Appeal by Special Leave</i> to the SC preferred by the appellants against the order of the Supreme Court;</p>	<p>Appeal partially allowed;</p> <p>Conviction of two appellants set aside; Conviction of two other appellants upheld as sufficient corroboration of evidence and prosecution witness present.</p>
50.	<p><b>Gohar Begam v. Suggi alias Nazma Begam and Ors.</b></p> <p>[AIR 1960 SC 93]</p> <p><u>(Decided on: 27-08-1959)</u></p>	<p>Appellant is an unmarried Muslim woman; She has an infant female illegitimate child;</p> <p>Appellant made an application to the Bombay High Court under Section 419, Cr.P.C. for recovery of custody of child from the respondents; Application refused (the learned Judges of the High Court observed that the case raised various controversial questions, specially as to the paternity of the child, as to whether the respondent had made the appellant live in the keeping of different persons and</p>	<p>Appeal allowed;</p> <p>Judgment and order of the Bombay High Court set aside; Respondents directed to make the custody of the child to the appellant.</p> <p>(Section 491 is expressly concerned with the directions of the nature of a habeas corpus. The English principles applicable to the issue of a writ of habeas corpus, therefore, apply here. In fact the Courts in our country have always exercised the power to direct under s. 491 in a fit case that the custody of an infant be delivered to</p>



		<p>also as to whether she had prevented the appellant from having access to the child. The learned Judges observed that it was not the function of a court in an application under Section 491, Cr.P.C. to record findings on such controversial facts and that, in these circumstances, the proper forum for the appellant was to move a civil court under the Guardian and Wards Act for the custody of the child. The learned Judges further observed that they were prima facie satisfied that the child as not illegally and improperly detained by the respondents. They therefore dismissed the appellant's application.);</p> <p>Appeal preferred to the Supreme Court.</p>	<p>the applicant.</p> <p>There is no reason why the appellant should have been asked to proceed under the Guardian and Wards Act for recovering the custody of the child. She had of course the right to do so. But she had also a clear right to an order for the custody of the child under Section 491 of the Code. The fact that she had a right under the Guardians and Wards Act is no justification for denying her the right under s. 491.)</p>
51.	<p><b>Krishnan Nair v. State of Kerala</b></p> <p><b>[1959 KLJ 1118]</b></p> <p><u>(24-09-1959)</u></p>	<p>Three persons accused and tried for a murder; Accused No. 1 was charged under Sections 302, 201, 381 and 461, IPCode; accused No. 2 under Section 302 read with Section 109 as well as Section 201 read with Section 109; and accused No. 3 was charged under Section 302 read with Section 34 and under Section 201;</p> <p>Accused No. 1 convicted both under Sections 302 and 201, IPC. Sentence of death was passed against accused No. 1 under Section 302 and no separate sentence was imposed under Section 201. Accused Nos. 2 and 3 were acquitted of all the offences charged and were ordered to be set at liberty;</p> <p>Accused No. 1 appealed to the High Court at Kerala against his conviction and sentence while the learned</p>	<p>Appeal allowed;</p> <p>The order of conviction and sentence passed against the appellant is set aside, and he is ordered to be acquitted and set at liberty.</p>

		<p>Sessions Judge had submitted for confirmation the sentence of death imposed by him on accused No. 1. The State Government had also appealed against the order of acquittal passed in favour of accused No. 2 and accused No. 3;</p> <p>Conviction of accused no. 1 upheld; Acquittal of accused no. 3 upheld; Acquittal of accused no. 2 set aside and convicted under Section 302, IPC read with Section 109, IPC. Accused no. 3 sentenced to death;</p>	
52.	<p><b>The State of Bombay v. Rusy Mistry and Anr.</b></p> <p>[AIR 1960 SC 391]</p> <p><u>(Decided on: 24-09-1959)</u></p>	<p>Court of Sessions convicted the respondents; Respondents charged for entering into criminal conspiracy to cheat the Government by submitting inflated bills based upon depreciation of 10%; Respondent No. 1 was convicted of the offence punishable under Section 417, 511 and 34 and sentenced to suffer rigorous imprisonment for six months. He was also convicted under Section 471, 467/34, IPC;</p> <p>High Court of Bombay set aside the convictions of the respondents and the sentence passed by the Court of Sessions;</p> <p><i>Appeal by Special Leave</i> to the SC preferred by the appellant.</p>	<p>Appeal dismissed; HC was correct in arriving at its judgment.</p>
53.	<p><b>Romesh Chandra Arora v. The State</b></p> <p>[AIR 1960 SC 154]</p> <p><u>(Decided: 06-10-1959)</u></p>	<p>Appellant was tried on a charge under s. 506, IPC; The appellant took indecent photographs of the girl by showing false love to her, and threatened X, in letters written to him,</p>	<p>Appeal dismissed as appeal is devoid of merit.</p>

		<p>with publication of the photographs with intent to extort money from the latter; Trial court found the appellant guilty of the said offence and accordingly convicted and sentenced him to rigorous imprisonment for one year;</p> <p>Appellant preferred an appeal from his conviction and sentence to the Sessions Judge of Delhi. However, Kapur, J., of the Punjab High Court (as he then was) suo motu called for the record of the case on reading a report thereof in a newspaper, and directed the issue of a notice to the appellant to show cause why the sentence should not be enhanced;</p> <p>High Court upheld the conviction and enhanced the sentence to two years' rigorous imprisonment;</p> <p>Appeal preferred to the SC by the appellant post grant of Certificate of fitness.</p>	
54.	<p><b>B.K. Pal Chaudhry v. The State of Assam</b></p> <p>[AIR 1960 SC 133]</p> <p><u>(Decided on: 07-10-1959)</u></p>	<p>Appellant was a witness in a criminal case being in which three persons were charged, <i>inter alia</i>, under Section 376, IPC with the offence of rape; Case was tried with the aid of a jury and resulted in a verdict of acquittal in respect of that charge;</p> <p>There was an appeal to the High Court of Assam against the acquittal which was allowed and two of the accused persons were convicted; High Court issued notice on the appellant to show cause as to why he should not be</p>	<p>Appeal allowed;</p> <p>Order of the High Court set aside.</p> <p>(Order appealed against had been made in breach of the express provisions of sub-sections (1) and (5) of s. 479A, and cannot be allowed to stand.)</p>

		<p>prosecuted under Section 193, IPC for giving false evidence; High Court directed the Registrar to lodge complaint in the Court of DC, Lakhimpur under Section 193, IPC;</p> <p><i>Appeal by Special Leave</i> to the SC preferred by the appellant.</p>	
55.	<p><b>Shambhu Nath Singh and Ors. v. State of Bihar</b></p> <p>[AIR 1960 SC 725]</p> <p><u>(Decided on: 30-10-1959)</u></p>	<p>Fourteen persons were put up for trial for offences punishable under Sections 147, 148, 302, 302 read with Section 149 of the Indian Penal Code and Sections 19(E) and 19 (F) of the Arms Act. The Additional Judicial Commissioner convicted nine out of the fourteen persons. He convicted the appellant for the offence under Section 302 and for offences under Sections 302 read with Section 149 and Section 148 of the Indian Penal Code and 19(F) of the Arms Act. For the offence under Section 302 of the Indian Penal Code, the appellant was sentenced to transportation for life; for the other offences no separate sentences were passed;</p> <p>Against the order of conviction and sentence, the appellant appealed to the High Court of Judicature at Patna which was pleased to uphold the convictions of these accused persons;</p> <p><i>Appeal by Special Leave</i> to the SC preferred by the appellant.</p>	<p>Appeal dismissed. Order of conviction properly arrived at by the lower courts.</p>
56.	<p><b>Dharamdas Hukamatrai Dorwani v. State of Bombay</b></p> <p>[AIR 1960 SC 734]</p>	<p>The appellant charged with having committed an offence under Section 420, IPC; Appellant acquitted by the Court of Sessions;</p>	<p>Appeal dismissed; Order of conviction and sentence passed by the High Court confirmed.</p>

	<u>(Decided on: 04-11-1959)</u>	<p>The State preferred an appeal against the said order of acquittal in the High Court at Bombay. The High Court held that the order of acquittal was wholly improper and that the charge against the appellant had been clearly proved beyond a reasonable doubt; High Court convicted the appellant under Section 420 and sentenced him to suffer rigorous imprisonment for a period of six months and to pay a fine of Rs. 1,000, in default to suffer rigorous imprisonment for a further period of two months. The appellant then applied to the High Court for leave to appeal to this Court but his application was dismissed;</p> <p><i>Appeal by Special Leave</i> to the SC preferred by the appellant.</p>	
57.	<p><b>Mohan v. State of Uttar Pradesh</b></p> <p>[AIR 1960 SC 659]</p> <p><u>(AIR 1960 SC 659)</u></p>	<p>Appellant tried and convicted by the Court of Sessions, Budaun for the murder of the deceased by giving him “peras” (sweets) containing arsenic, to eat; Appellant sentenced to death by the Court of Sessions;</p> <p>On appeal the conviction and sentence, were confirmed by the High Court at Allahabad;</p> <p><i>Appeal by Special Leave</i> to the SC preferred by the appellant.</p>	Appeal dismissed (Appeal wholly without substance.)
58.	<p><b>Bharwad Mepa Dana and Anr. v. The State of Bombay</b></p> <p>[AIR 1960 SC 289]</p> <p><u>(Decided on: 10-11-1959)</u></p>	<p>Court of Sessions, Rajkot tried the appellant along with ten other persons for various offences under the IPC, including the offence of murder punishable under section 302 read with</p>	Appeals dismissed; Conviction and sentence upheld.

		<p>Sections 149 and 34 of the IPC.</p> <p>Sentenced the two appellants to death, finding them guilty of the offence under Section 302 read with Section 149 of the IPC as also Section 302 read with Section 34, IPC;</p> <p>All the convicted persons preferred an appeal to the High Court of Bombay. There was also a reference by the Sessions Judge under Section 374, Cr.P.C, for confirmation of the sentence of death passed on the two appellants. The appeal and the reference were heard together; The High Court affirmed the conviction of the two appellants;</p> <p><i>Appeal by Special Leave</i> to the SC preferred by the appellant.</p>	
59.	<p><b>Feroze Din and Ors. v. The State of West Bengal</b></p> <p>[AIR 1960 SC 363]</p> <p><u>(Decided on: 25-11-1959)</u></p>	<p>Appellants convicted by a Magistrate of Asansol in West Bengal, of an offence under Section 27 of the Industrial Disputes Act, 1947, for having instigated and incited others to take part in an illegal strike. Each appellant was sentenced to simple imprisonment for three months;</p> <p>On appeal, the Court of Sessions, Asansol, confirmed the order of the learned Magistrate;</p> <p>The Calcutta High Court upheld the conviction and sentence;</p> <p><i>Appeal by Special Leave</i> to the SC preferred by the appellant.</p>	<p>Appeal dismissed with modification in sentence.</p> <p>A sentence of simple imprisonment for the period already served and a fine of Rs. 100 with simple imprisonment for a period of fifteen days in default of payment of the fine for each appellant will be sufficient in this case.</p>

<p>60.</p>	<p><b>The State v. Hiralal Girdharilal Kothari, D.P. Chadda and F.X. Jacobs</b></p> <p>[AIR 1960 SC 360]</p> <p><u>(Decided on: 30-11-1959)</u></p>	<p>Case registered under Section 165-A of the IPC, Section 5(2), P.C. Act, Section 5 of the Official Secrets Act and Section 120-B of the IPC;</p> <p>Thereafter, pardon was tendered to one Mehra, through whom secret divulged to the other accused persons, by the Additional District Magistrate under Section 337 Cr.P.C.; Prosecution wanted to examine Mehra as an approver; The magistrate held that Mehra could be treated as an approver and proceedings before him were therefore in the nature of commitment proceedings. Thereupon there was a revision to the Sessions Judge who took the view that as the proceedings before the magistrate were under Section 5 of the Official Secrets Act read with Section 120-B of the Indian Penal Code and as no pardon could be tendered under Section 337 Cr.P.C. for these offences, Mehra could not be treated as an approver and had to be examined as an ordinary witness and the proceedings must be held to be trial proceedings before the magistrate and not commitment proceedings. He therefore recommended to the High Court that the order of the magistrate be set aside.</p> <p>Appeal preferred to the SC by the appellant post grant of Certificate of fitness.</p>	<p>Appeal dismissed;</p> <p>(Question before Supreme Court whether a pardon under Section 337(1), Cr.P.C., can be granted in case of an offence under Section 5 read with Section 120-B; Held that pardon cannot be granted for an offence of this nature under Section 337(1), Cr.P.C.)</p>
<p>61.</p>	<p><b>Maharaj P. Bhimsinghji v. State of Bombay (now Rajasthan)</b></p>	<p>Appellant and his servant tried by JMFC, Abu Road for an offence punishable under Sections 65(a) and</p>	<p>Appeal allowed and the conviction and sentence of the appellant are set aside. The fine, if paid, shall be</p>

	<p><b>[AIR 1960 SC 483]</b></p> <p><u>(Decided on: 09-12-1959)</u></p>	<p>66(b) of the Bombay Prohibition Act, 1949. A third accused in the case was discharged</p> <p>Appellant sentenced to 6 months' simple imprisonment and a fine of Rs. 500 under Section 65(a) of the Act and to 3 months' simple imprisonment and a fine of Rs. 500 under Section 66(b) of the Act; Servant sentenced to one month's simple imprisonment and a fine of Rs. 100 under Section 65(a) of the Act and to 15 days' simple imprisonment and a fine of Rs. 100 under Section 66(b) of the Act; Sentences of imprisonment for both the convicts were directed to run concurrently.</p> <p>Appellant preferred an appeal to the Court of Sessions against his conviction and sentence. Court allowed the appeal and set aside the conviction and sentence of the appellant;</p> <p>Against this order of acquittal the State of Bombay appealed to the Bombay High Court; Court allowed the appeal, set aside the order of acquittal and convicted the appellant to restore the order of conviction and sentence passed by the Magistrate.</p> <p><i>Appeal by Special Leave</i> to the SC preferred by the appellant.</p>	<p>refunded.</p> <p>(Circumstantial evidence sufficient to convict the accused should be of the kind as to suggest the only inference of the commission of the offence.)</p>
<p>62.</p>	<p><b>State of Delhi v. Shri Ram Lohia</b></p> <p><b>[AIR 1960 SC 490]</b></p> <p><u>(Decided on: 09-12-1959)</u></p>	<p>Trial Court charged and convicted the respondent for offence punishable under Section 5 of the Indian Official Secrets Act;</p>	<p>Appeal dismissed.</p> <p>Addistional Sessions Judge erred in law.</p>



		<p>Sentenced the accused to a fine of Rs. 1,000 in default to suffer rigorous imprisonment for six months;</p> <p>Respondent appealed against conviction and the sentence; Appeal dismissed by the Additional Sessions Judge of Delhi. The Punjab and Haryana High Court in its Revisional Jurisdiction set aside the conviction and sentence and acquitted the respondent;</p> <p><i>Appeal by Special Leave</i> to the SC preferred by the appellant.</p>	
63.	<p><b>Anant Chintaman Lagu v. The State of Bombay</b></p> <p>[AIR 1960 SC 500]</p> <p><u>(Decided on: 14-12-1959)</u></p>	<p>Appellant charged and tried for the offence under Section 302, IPC;</p> <p>Appellant convicted and sentenced to death by the Court of Sessions, Poona;</p> <p>Bombay High Court maintained the conviction and of the appellant and confirmed the sentence of death passes by the Court of Sessions;</p> <p><i>Appeal by Special Leave</i> to the SC preferred by the appellant.</p>	<p>Appeal dismissed. Award of death sentence upheld by the Supreme Court.</p>
64.	<p><b>Bhagwan Sahai v. State of Punjab</b></p> <p>[AIR 1960 SC 487]</p> <p><u>(Decided on: 18-12-1959)</u></p>	<p>Appellant charged and convicted for offence under Section 5(1)(d) of the Prevention of Corruption Act; Sentenced to imprisonment till the rising of the Court;</p> <p>Convicted upheld by the Punjab and Haryana High Court;</p> <p><i>Appeal by Special Leave</i> to the SC preferred by the appellant.</p>	<p>Appeal dismissed; Conviction upheld.</p> <p>(The appellant had abused his position and helped another person to derive a pecuniary advantage thereby and facts show that he had done this consistently for over several months. This would amount to his habitually obtaining in the discharge of his duty gratification for another person.)</p>

<p>65.</p>	<p><b>Ballabhdas Agarwala v. J.C. Chakrabarty</b></p> <p>[AIR 1960 SC 576]</p> <p><u>(Decided on: 15-01-1960)</u></p>	<p>Appellant shop selling adulterated butter; Sanitary Inspector filed a complaint before the Magistrate, Howrah, asking for the issue of summons to the appellant for an offence under Section 488 read with Section 406 and Section 407 of the Calcutta Municipal Act, 1923; Appellant and his servant put to trial; Court of first instance acquitted the accused persons;</p> <p>Administrator, Howrah Municipality, preferred an application in revision to the Calcutta High Court; High Court set aside the order of acquittal and ordered a retrial by another magistrate;</p> <p>At retrial appellant was convicted under Sections 406 and 407 read with Section 488 of the Calcutta Municipal Act; Sentenced to a fine of Rs. 200 or in default simple imprisonment for 30 days;</p> <p>Appellant moved the Court of Sessions, Howrah for a reference to the High Court, but without success; An application in revision was then moved in the High Court, but was summarily dismissed;</p> <p>Appeal preferred to the SC by the appellant post grant of Certificate of fitness.</p>	<p>Appeal dismissed; Conviction and sentence upheld.</p>
<p>66.</p>	<p><b>The State of UP v. Hafiz Mohammad Ismail and Hafiz Jawed Ali</b></p> <p>[AIR 1960 SC 669]</p>	<p>Respondents tried and convicted for offence under Sections 482 and 486, IPC;</p> <p>Respondents preferred appeal to the</p>	<p>Appeal allowed;</p> <p>Acquittal set aside; Matter remanded to the High Court for disposal (as the High Court did not consider the points</p>

	<u>(Decided on: 09-02-1960)</u>	<p>Court of Sessions; Appeal dismissed;</p> <p>Respondents went in revision to the High Court; High Court acquitted the respondents;</p> <p><i>Appeal by Special Leave to the SC preferred by the appellant.</i></p>	<p>relating to jurisdiction and limitation and whether the respondents were protected under clause (a) and clause (b) or (c) of Section 486, IPC they were remanded to the High Court for disposal according to law on these points.)</p>
67.	<p><b>Smt. Nagindra Bala Mitra and Anr. v. Sunil Chandra Roy and Anr.</b></p> <p><b>[AIR 1960 SC 706]</b></p> <p><u>(Decided on: 12-02-1960)</u></p>	<p>Respondents charged with and tried for offences under Section 302, 323 and 447 of the IPC; Respondents were convicted except one whose case was referred to the High Court as the learned Judge did not agree with the jury's verdict of not guilty;</p> <p>Two convicts preferred an appeal to the High Court against their convictions; Appeal allowed and court directed that appellants be retried at the Criminal Sessions of the High Court; Reference in respect of the acquit was rejected and the Rule for enhancement of the sentences passed necessarily fell through; Respondents convicted and sentenced to various terms of imprisonment and fines;</p> <p>An appeal was then preferred by the respondents; This appeal was again allowed, and another retrial was directed at the Criminal Sessions of the High Court; State withdrew case against one of the two accused; Respondent Sunil tried and acquitted;</p> <p>State preferred an appeal to the High Court against the order of acquittal, but the High Court summarily dismissed it;</p> <p><i>Appeal by Special Leave to the SC</i></p>	<p>Appeal dismissed.</p> <p>(In a trial by jury, the judge should in his charge to the jury be careful to lead them to a correct appreciation of the evidence so that the essential issues in the case may be correctly determined. Since a verdict of the jury depends upon the charge, if it fails to perform this basic purpose it could not be regarded as a proper charge and if it contains also mis-directions as to law, the verdict could not be upheld. However if, upon the general view taken, the case has been fairly left within the jury's province, the verdict could not be set aside unless something gross amounting to a complete mis-description of the whole bearing of the evidence has occurred.)</p>

		preferred by the appellant.	
68.	<p><b>Rabari Ghela Jadav v. The State of Bombay</b></p> <p>[AIR 1960 SC 748]</p> <p><u>(Decided on: 26-02-1960)</u></p>	<p>Appellant tried and convicted under Section 304, Part I of the IPC; Sentenced to imprisonment for life;</p> <p>Appellant preferred an appeal to the Bombay High Court; According to the judgment of the High Court the appeal was admitted only on the point of sentence. The High Court reduced the sentence from imprisonment for life to 10 years' rigorous imprisonment;</p> <p><i>Appeal by Special Leave</i> to the SC preferred by the appellant.</p>	<p>Appeal dismissed.</p> <p>(Appeal cannot be entertained only on basis of sentence alone.)</p>
69.	<p><b>Jaikrishnadas Manohardas Desai and Anr. v. The State of Bombay</b></p> <p>[AIR 1960 SC 889]</p> <p><u>(Decided on: 16-03-1960)</u></p>	<p>Trial court tried and convicted the appellants of offences under Section 409 read with Section 34, IPC; Sentenced the first appellant to suffer rigorous imprisonment for five years and the second appellant to suffer rigorous imprisonment for four years;</p> <p>In appeal, the High Court confirmed the conviction of the two appellants but reduced the sentence passed upon the first appellant to rigorous imprisonment for three years and the sentence against the second appellant to rigorous imprisonment for one year;</p> <p><i>Appeal by Special Leave</i> to the SC preferred by the appellant.</p>	<p>Appeal dismissed.</p>
70.	<p><b>R.P. Kapur v. The State of Punjab</b></p> <p>[AIR 1960 SC 866]</p>	<p>FIR lodged against appellant under Sections 420, 109, 114 and 120B of the IPC; No action taken upon the FIR for a long time;</p>	<p>Appeal dismissed.</p> <p>(Under Section 561A, Cr.P.C. High Court has inherent power to make</p>

	<p><u>(Decided on: 25-03-1960)</u></p>	<p>Appellant moved the Punjab and Haryana High Court under Section 561A of Cr.P.C. for quashing the proceedings initiated by the FIR in question;</p> <p>Pending the hearing of the said petition in the High Court, the police report was submitted under Section 173 Cr.P.C.; Court heard the appellant's petition and held that no case had been made out for quashing the proceedings under Section 561-A; Petition dismissed;</p> <p><i>Appeal by Special Leave to the SC preferred by the appellant.</i></p>	<p>such orders as may be necessary to give effect to any order under this Code or prevent abuse of process of Court; There is no legal bar to institution of legal proceedings on basis of allegations in first information report lodged by respondent; Also allegations made do constitute offences to continue with proceedings - even on face of delay in filing police report under Section 173 appellant's prayer to quash proceedings cannot be sustained.)</p>
<p>71.</p>	<p><b>Vadilal Panchal v. Dattatraya Dulaji Ghadigaonker and Anr.</b></p> <p>[AIR 1960 SC 1113]</p> <p><u>(Decided on: 06-05-1960)</u></p>	<p>Complaint filed in the Court of Presidency Magistrate, Bombay by the respondent; Appellant charged with firing a shot and killing one person;</p> <p>Coroner of Bombay held an inquest into the death and returned a verdict that the deceased died of the gunshot caused by a bullet fired by the appellant "under such circumstances as would render the firing to be in exercise of the right of private defence and as such justified";</p> <p>Respondent filed his complaint before the Ld. Presidency Magistrate who referred it to the Superintendent of Police, C.I.D., for enquiry and report; Enquiries revealed that the appellant was justified in resorting to firearms in self defence of himself and the other occupants of the motor car; The Magistrate gave the respondent another</p>	<p>Appeal allowed; Order of High Court set aside and order of Presidency magistrate restored (High Court set aside the order of the Presidency Magistrate on an erroneous view of the scope of Section 203, Cr.P.C.)</p>

		<p>opportunity to examine his witnesses before the enquiring officer, because by reason of a revision application made to the High Court earlier against the order referring the case to the police for enquiry, there respondent did not produce his witnesses before the enquiring officer; In his report the enquiring officer qualified the fire-shot as an act of self defence; Magistrate dismissed the complaint under Section 203, Cr.P.C.;</p> <p>Against this order of dismissal the respondent-complainant moved the High Court which set aside the order of dismissal and directed the Presidency Magistrate to issue process against the appellant and deal with the case in accordance with law;</p> <p><i>Appeal by Special Leave</i> to the SC preferred by the appellant.</p>	
72.	<p><b>The State of Bombay v. Parshottam Kanaiyalal</b></p> <p>[AIR 1961 SC 1]</p> <p><u>(Decided on: 31.08.1960)</u></p>	<p>Respondent charged with and tried for an offence under Section 16 read along with Section 7 of the of the Prevention of Food Adulteration Act, 1954 by the Special Judicial Magistrate, First Class, Baroda; Objection raised with terms of Section 20(1) of the Act;</p> <p>Magistrate over-ruled the objections, convicted the respondent and sentenced him to pay a fine of Rs. 300;</p> <p>Appeal against conviction and sentence preferred to the Court of Sessions, Baroda; Court set aside the order of conviction and sentence and discharged the respondent;</p>	<p>Appeal allowed; Order of High Court set aside and order of Magistrate restored.</p> <p>(Complainant need not be named in “the written consent” under Section 20(1) of the Food Adulteration Act, 1954.)</p>

		<p>An appeal by the State to the High Court which was later converted into a Criminal Revision petition; High Court affirmed the order passed by the learned Sessions Judge;</p> <p><i>Appeal by Special Leave</i> to the SC preferred by the appellant.</p>	
73.	<p><b>The State of Bombay v. Bandhan Ram Bhandani and Ors.</b></p> <p>[AIR 1961 SC 186]</p> <p><u>(Decided on: 23-09-1960)</u></p>	<p>Respondents charged with and tried by the Presidency Magistrate for offences under Sections 32(5) and 133(3) of the Companies Act, 1913, as amended by Act XXII of 1936; Respondents separately tried for each offence; Magistrate acquitted the respondents;</p> <p>Appeals by the appellant preferred to the Bombay High Court dismissed summarily;</p> <p><i>Appeal by Special Leave</i> to the SC preferred by the appellant.</p>	<p>Appeals allowed; Case remanded back to the Ld. Presidency Magistrate to be tried on merits.</p>
74.	<p><b>Padma Sen and Anr. v. The State of Uttar Pradesh</b></p> <p>[AIR 1961 SC 218]</p> <p><u>(Decided on: 27-09-1960)</u></p>	<p>Special Judge, Meerut convicted the appellants of offence under Section 165-A, IPC;</p> <p>Appeals dismissed and conviction upheld by the Allahabad High Court;</p> <p>Appeals preferred to the SC by the appellant post grant of Certificate of fitness.</p>	<p>Appeals allowed; Order of the courts below set aside; Appellants acquitted.</p> <p>(Person accepting gratification was not a public servant and that therefore the appellants did not commit any offence under Section 165-A, IPC by their offering him money in order to have an opportunity to tamper with the books of account which were in his custody.)</p>
75.	<p><b>Keki Bejonji and Anr v. The State of Bombay</b></p> <p>[AIR 1961 SC 967]</p> <p><u>(Decided on: 18-11-1960)</u></p>	<p>Appellants tried and convicted for offences under Sections 65(b), 65(f) and 66(b) of the Bombay Prohibition Act, 1949 by the Presidency Magistrate;</p>	<p>Appeal of Appellant No. 1 dismissed; Appeal of Appellant No. 2 allowed; Conviction and sentence set aside;</p>

		<p>Appellant No. 1 sentenced to 9 months' rigorous imprisonment and a fine of Rs. 1,000 under section 65(b). Appellant No. 2 was sentenced to 6 months' rigorous imprisonment and fine of Rs. 500 under section 65(b); No sentence imposed under any other section;</p> <p>Appellants preferred appeals to the Bombay High Court; High Court set aside the convictions under Sections 65(b) and 66(b) of the Act but maintained their conviction under section 65(f) read with Section 81 relying on the presumption against the appellants arising out of Section 103 of the Act; High Court directed that the sentence of imprisonment and fine imposed upon the appellants by the Presidency Magistrate under section 65(b) be regarded as the sentence of imprisonment and fine imposed on the appellants under section 65(f) read with section 81;</p> <p><i>Appeal by Special Leave</i> to the SC preferred by the appellant.</p>	
76.	<p><b>Madan Mohan Damma Mal Ltd. and Anr. v. The State of West Bengal and Anr.</b></p> <p>[AIR 1961 SC 1013]</p> <p><u>(Decided on: 24-11-1960)</u></p>	<p>Court of Sessions convicted appellants under Section 462 of the Calcutta Municipal Act, 1951;</p> <p>Calcutta High Court affirmed the conviction;</p> <p><i>Appeal by Special Leave</i> to the SC preferred by the appellant.</p>	Appeal dismissed; Conviction of the appellants is correct.
77.	<p><b>Sanwat Singh and Ors. v. State of Rajasthan</b></p>	<p>43 persons alleged to have taken part in rioting were put up for trial before the</p>	Appeals dismissed; Conviction and sentence of the High Court upheld.



	<p><b>[AIR 1961 SC 715]</b></p> <p><u>(Decided on: 09-12-1960)</u></p>	<p>Court of Sessions; Charged for having committed offence under Section 302 read with Sections 149 and 148, IPC; Accused acquitted;</p> <p>High Court of Rajasthan convicted the 9 appellants under Section 304 read with Sections 149 and 148 of the Indian Penal Code;</p> <p><i>Appeals by Special Leave</i> to the SC preferred by the appellants.</p>	
78.	<p><b>Sarjoo Prasad v. The State of Uttar Pradesh</b></p> <p><b>[AIR 1961 SC 631]</b></p> <p><u>(Decided on: 16-12-1960)</u></p>	<p>Appellant tried and convicted for offence under Section 7 read with Section 16 of the Prevention of Food Adulteration Act, 1954 by JMFC; In view of a previous conviction for a similar offence appellant was sentenced to rigorous imprisonment for 1 year and to pay a fine of Rs. 2000;</p> <p>Conviction and sentence confirmed in an appeal by the Court of Sessions at Allahabad and by Allahabad High Court;</p> <p><i>Appeal by Special Leave</i> to the SC preferred by the appellant.</p>	<p>Appeal dismissed subject to modification;</p> <p>(Offence committed by the appellant is a repetition of a similar offence but having regard to all the circumstances, this is a case in which there are special and adequate reasons which would justify imposition of a penalty less than the minimum prescribed by Section 16(ii) of the Act; Sentence reduced to imprisonment to three months and fine remitted.</p>

2. **CUMULATIVE ASSESSMENT** *by FALAKYAR ASKARI*

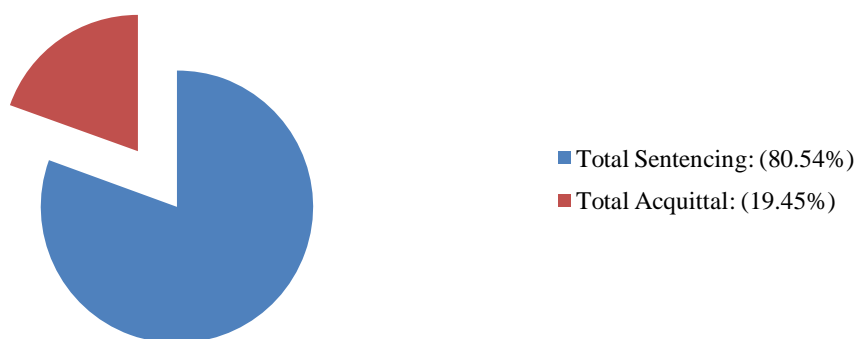
**(LEVEL II)**

**Cumulative Assessment is a collective assessment of two works:**

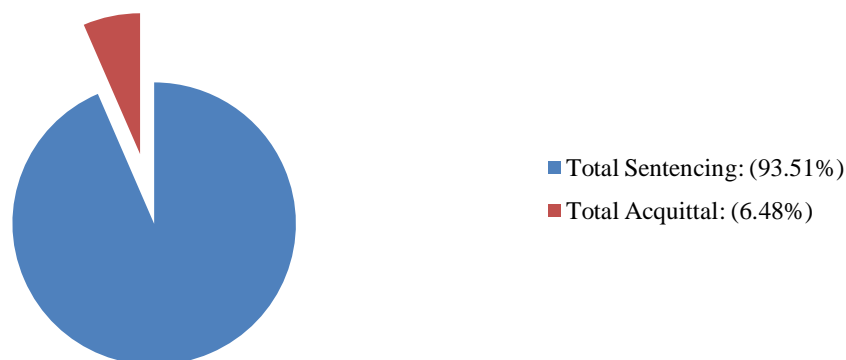
- 1. STUDY OF THE CASES (78 in Nos.) by FALAKYAR ASKARI (LEVEL I) [See, Pages 1 – 48]; and**
  - 2. AN ANALYTICAL REPORT OF CASES AND THEIR SENTENCING POLICY AND PRINCIPLES INVOLVED (1950-1960) by DEEPAK KUMAR (LEVEL I) [See, APPENDIX I]**
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**TOTAL NUMBER OF CASES STUDIED (1950-196): 185 (in nos.)**

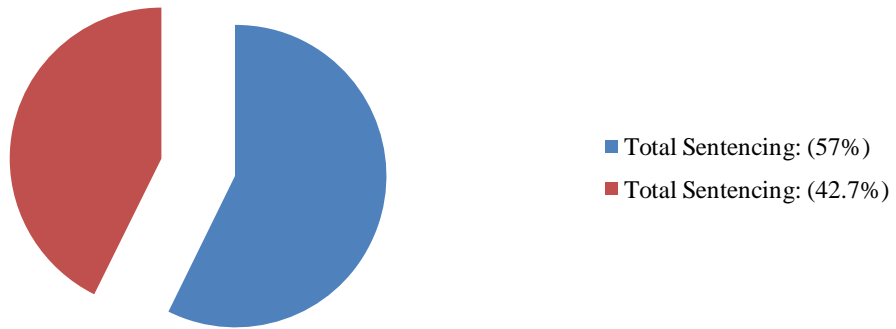
**TRIAL COURT (Total No. of Cases: 185)**



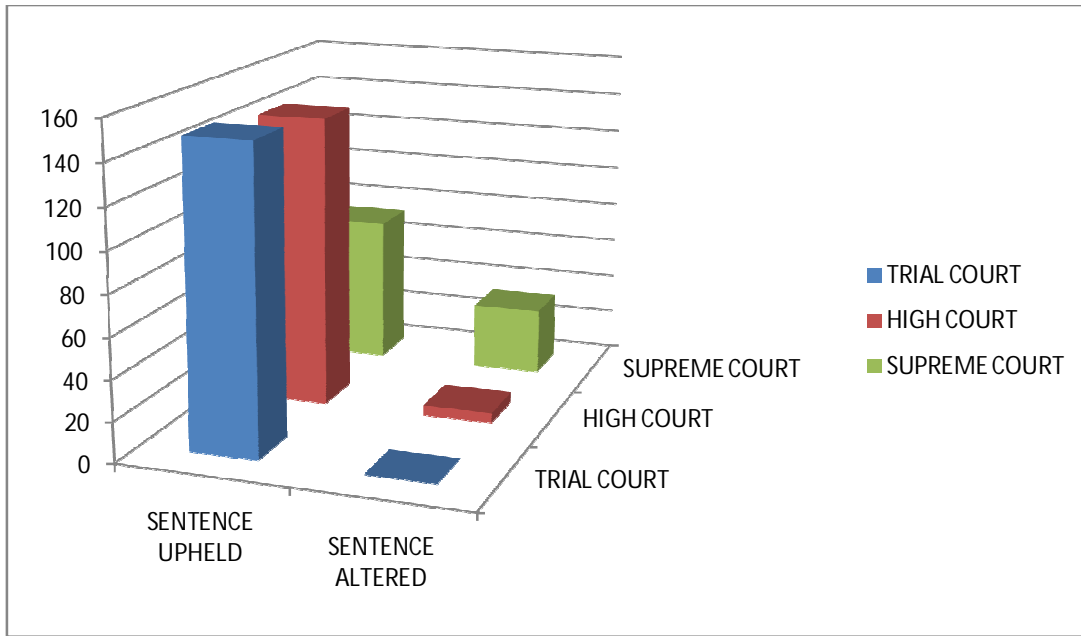
**HIGH COURT (Total No. of Cases: 185)**



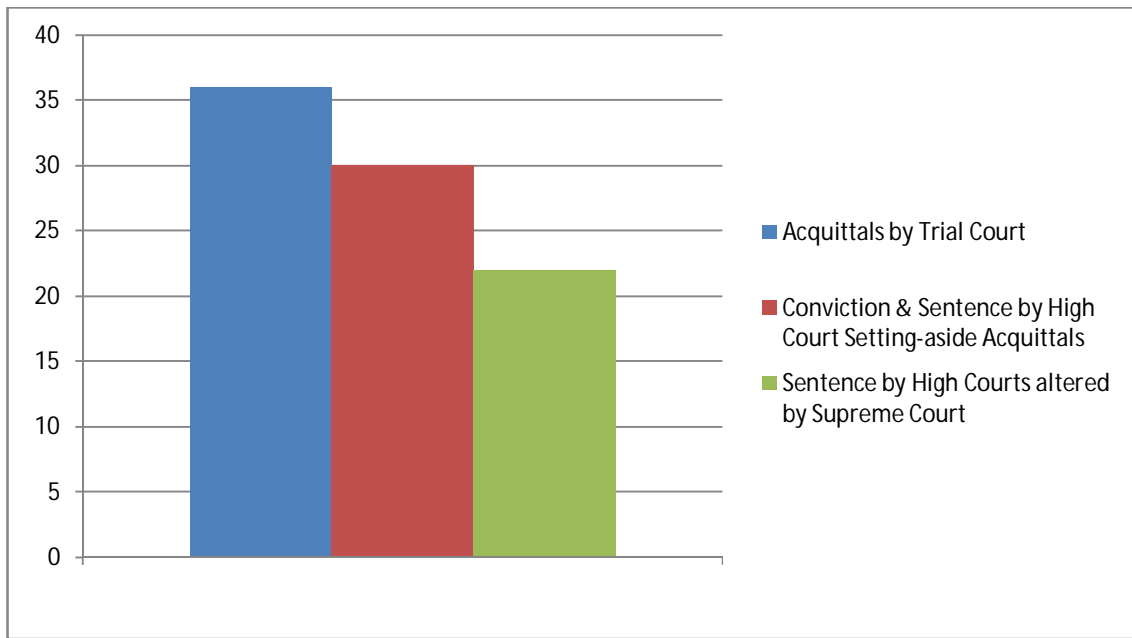
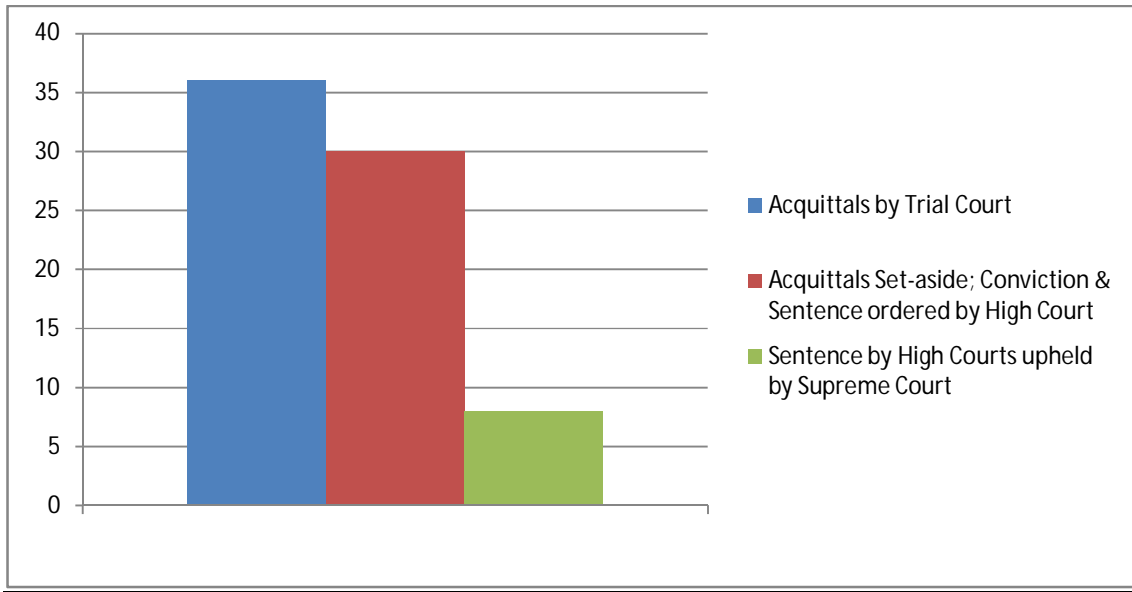
**SUPREME COURT (Total No. of Cases: 185)**



**SENTENCE UPHELD (Comparative Chart)**



**CONVICTION AND SENTENCE BY HIGH COURT SETTING-ASIDE  
ACQUITTALS BY TRIAL COURT (Comparative Chart)**



**Table depicting Sentencing Policy**

	<b>Trial Courts</b>	<b>High Courts</b>	<b>Supreme Court</b>
<b>Total no. of sentence ordered</b>	<b>149</b>	<b>173</b>	<b>106</b>
<b>Total no. of sentence upheld</b>	<b>149</b>	<b>144</b>	<b>73</b>
<b>Total no. of sentence altered</b>	<b>0</b>	<b>5</b>	<b>33</b>

<b>Total no. of acquittals ordered by trial courts</b>	<b>Acquittals set-aside; Conviction and Sentence ordered by High Courts</b>	<b>Sentence by High Courts upheld by the Supreme Court</b>	<b>Sentence by High Courts set-aside by the Supreme Court</b>
<b>36</b>	<b>30</b>	<b>8</b>	<b>22</b>

**APPENDIX - I**