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2.	***In re: Framing Guidelines Regarding Potential Mitigating Circumstances to be Considered while Imposing Death Sentences, 2022 SCC OnLine SC 1246,*** The court is of the opinion that it is necessary to have clarity in the matter to ensure a uniform approach on the question of granting real and meaningful opportunity, as opposed to a formal hearing, to the accused/convict, on the issue of sentence.
3.	***Jaswinder Singh v. Navjot Singh Sidhu, (2022) 7 SCC 628,*** An important aspect to be kept in mind is that any undue sympathy to impose inadequate sentence would do more harm to justice system and undermine the public confidence in the efficacy of law. The society cannot long endure under serious threats and if the courts do not protect the injured, the injured would then resort to private vengeance and, therefore, it is the duty of every court to award proper sentence having regard to the nature of the offence and the manner in which it was executed or committed. It has, thus, been observed that the punishment to be awarded for a crime must not be irrelevant but it should conform to and be consistent with the atrocity and brutality with which the crime has been perpetrated.
4.	***Saifur @ Saifur Rehman Ansari v. State of Rajasthan, D.B. Criminal Death Reference No. 2/2020***, Material witnesses required to unfold the events were withheld and apparent manipulations and fabrications have been done during the investigation. This case is a classic example of institutional failure resulting in botched/flawed/shoddy investigation. We fear this isn't the first case to suffer due to failure of investigation agencies and if things are allowed to continue the way they are, this certainly won't be the last case in which administration of justice is affected due to shoddy investigation.
5.	***State of Madhya Pradesh v. Nandu, Criminal Appeal No. 1356 of 2022***, The punishment for murder under Section 302 IPC shall be death or imprisonment for life and fine. Therefore, the minimum sentence provided for the offence punishable under Section 302 IPC would be imprisonment for life and fine. There cannot be any sentence/punishment less than imprisonment for life, if an accused is convicted for the offence punishable under Section 302 IPC. Any punishment less than the imprisonment for life for the offence punishable under Section 302 would be contrary to Section 302 IPC.
6.	***Manoj v. State of M.P., 2021 SCC OnLine SC 3219***, The Court opined that the recent trend to call for a Probation Officer's Report, is in fact a desperate attempt by the courts at the appellate stage, to obtain information on the accused. However, this too is too little, too late, and only offers a peek into the circumstances of the accused after conviction. Therefore, the Court made it mandatory for trial courts to call for psychiatric and psychological evaluation reports of the accused before awarding capital punishment. The Court observed, "The unfortunate reality is that in the absence of well-documented mitigating circumstances at the trial level, the aggravating circumstances seem far more compelling, or overwhelming, rendering the sentencing court prone to imposing the death penalty, on the basis of an incomplete, and hence, incorrect application of the Bachan Singh test.
7.	***Dattaraya v. State of Maharashtra (2020) 14 SCC 290***., The court observed, that for effective hearing under Section 235(2) of the Code of Criminal Procedure, the suggestion that the court intends to impose death penalty should specifically be made to the accused, to enable the accused to make an effective representation against death sentence, by placing mitigating circumstances before the Court.

8.	***Surinder Singh v. State, 2021 SCC OnLine SC 1135***, The Court has explicitly ruled out the practice of awarding disproportionate sentences, especially those that showcase undue leniency, for it would undermine the public confidence in efficacy of law." The awarding of just and proportionate sentence remains the solemn duty of the Courts and they should not be swayed by non-relevant factors while deciding the quantum of sentence. Naturally, what factors should be considered as 'relevant' or 'non-relevant' will depend on the facts and circumstances of each case, and no straight jacket formula can be laid down for the same.
9.	***Rajendra Pralhadrao Wasnik v. State of Maharashtra, (2019) 12 SCC 460***, Adequate opportunity to produce relevant material on the question of death sentence shall be provided to the accused by the trial court.
10.	***State of Madhya Pradesh v. Vikram Das, AIR 2019 SC 835***, The Court cannot impose less than minimum sentence contemplated by the statute. Even the provisions of Article 142 of the Constitution of India cannot be resorted to impose sentence less than the minimum sentence provided by law.
11.	***X v. State of Maharashtra, (2019) 7 SCC 1*** The Court extensively considered the precedents on the question of sentencing, and concluded the position of law as follows: • That the term "hearing" occurring under Section 235(2) requires the accused and prosecution at their option, to be given a meaningful opportunity. • Meaningful hearing under Section 235(2) CrPC, in the usual course, is not conditional upon time or number of days granted for the same. It is to be measured qualitatively and not quantitatively. • The trial court needs to comply with the mandate of Section 235(2) CrPC with best efforts. • Non-compliance can be rectified at the appellate stage as well, by providing meaningful opportunity. • If such an opportunity is not provided by the trial court, the appellate court needs to balance various considerations and either afford an opportunity before itself or remand back to the trial court, in appropriate case, for fresh consideration. • However, the accused need to satisfy the appellate courts, inter alia by pleading on the grounds as to existence of mitigating circumstances, for its further consideration. • Being aware of certain harsh realities such as long protracted delays or jail appeals through legal aid, etc., wherein the appellate court, in appropriate cases, may take recourse of independent enquiries on relevant facts ordered by the court itself. • If no such grounds are brought by the accused before the appellate courts, then it is not obligated to take recourse under Section 235(2) CrPC."
12.	***Mohd. Hashim v. State of UP, (2017) 2 SCC 198***, Where legislation prescribes minimum sentence without any discretion to the court, such sentence cannot be reduced by the court. Imposition of minimum sentence in such cases, be it imprisonment or fine, is mandatory. However, there may be cases where legislation prescribes a minimum sentence but grants discretion to the court to award a lower sentence or not to award a sentence of imprisonment, which discretion includes discretion not to send the accused to prison. In such latter cases, the minimum prescribed sentence cannot be construed as a minimum sentence.

13.	***K.P. Singh v. State of NCT of Delhi, 2015 SCC OnLine SC 858***, The courts have not attempted to exhaustively enumerate the considerations that go into determination of the quantum of sentence nor have the Courts attempted to lay down the weight that each one of these considerations carry because any such exercise is neither easy nor advisable given the myriad situations in which the question may fall for determination. Laying down some of the considerations kept in mind by the Courts while exercising the discretion in awarding sentence, the Court said that the reformative, deterrent and punitive aspects of punishment, delay in the conclusion of the trial and legal proceedings, the age of the accused, his physical/health condition, the nature of the offence, the weapon used and in the cases of illegal gratification the amount of bribe, loss of job and family obligations of accused are some of the considerations that weigh heavily with the Courts while determining the sentence to be awarded.
14.	***State of M.P. v. Bablu [(2014) 9 SCC 281 : (2014) 6 SCC (Cri) 1***, the Court reiterated the settled proposition of law that one of the prime objectives of criminal law is the imposition of adequate, just, proportionate punishment which is commensurate with the gravity, nature of crime and the manner in which the offence is committed. One should keep in mind the social interest and conscience of the society while considering the determinative factor of sentence with gravity of crime. The punishment should not be so lenient that it shocks the conscience of the society. It is, therefore, the solemn duty of the court to strike a proper balance while awarding the sentence as awarding lesser sentence encourages any criminal and, as a result of the same, the society suffers
15.	***Sunil Dutt Sharma v. State (Govt. of NCT of Delhi), (2014) 4 SCC 375,*** The power and authority conferred by use of the different expressions noticed above indicate the enormous discretion vested in the courts in sentencing an offender who has been found guilty of commission of any particular offence. Nowhere, either in the Penal Code or in any other law in force, any prescription or norm or even guidelines governing the exercise of the vast discretion in the matter of sentencing have been laid down except perhaps, Section 354(3) of the Code of Criminal Procedure, 1973 which, inter alia, requires the judgment of a court to state the reasons for the sentence awarded when the punishment prescribed is imprisonment for a term of years. In the above situation, naturally, the sentencing power has been a matter of serious academic and judicial debate to discern an objective and rational basis for the exercise of the power and to evolve sound jurisprudential principles governing the exercise thereof.
16.	***Sumer Singh v. Surajbhan Singh, 2014 7 SCC 323,*** It is the duty of the court to impose adequate sentence, for one of the purposes of imposition of requisite sentence is protection of the society and a legitimate response to the collective conscience. The paramount principle that should be the guiding laser beam is that the punishment should be proportionate. It is the answer of law to the social conscience. In a way, it is an obligation to the society which has reposed faith in the court of law to curtail the evil. While imposing the sentence it is the Court's accountability to remind itself about its role and the reverence for rule of law. It must evince the rationalized judicial discretion and not an individual perception or a moral propensity. The victim, in this case, still cries for justice. We do not think that increase in fine amount or grant of compensation under the Code would be a justified answer in law. Money cannot be the oasis. It cannot assume the centre stage for all redemption. Interference in manifestly inadequate and unduly lenient sentence is the justifiable warrant, for the Court cannot close its eyes to the agony and anguish of the victim and, eventually, to the cry of the society. Therefore, striking the balance we are disposed to think that the cause of justice would be best subserved if the respondent is sentenced to undergo rigorous imprisonment of two years apart

	from the fine that has been imposed by the learned trial judge. Before parting with the case we are obliged, nay, painfully constrained to state that it has come to the notice of this Court that in certain heinous crimes or crimes committed in a brutal manner the High Courts in exercise of the appellate jurisdiction have imposed extremely lenient sentences which shock the conscience.
17.	***Jasvir Kaur v. State of Punjab, (2013) 11 SCC 401*** The issue of punishment, sentencing of the convicted accused which is at the heart of the administration of criminal justice is both a delicate and difficult task. Unfortunately, however, the question of sentencing does not receive due importance and the requisite application of mind by the courts. In our country, there is very little legislative, judicial or any other kind of guidance available to meaningfully deal with the question of sentencing. The absence of any guidelines makes the task of the court more difficult and casts a heavy responsibility on it to calibrate the due punishment that might be awarded to a convict, taking into consideration all the relevant facts and circumstances.
18.	***Shanker Kisanrao Khade v. State of Maharashtra (2013) 5 SCC 546***, The court acknowledged that the difficulty in the application of 'rarest of rare' since there is lack of empirical data for making two fold comparison between murder (not attracting death penalty) and murder (attracting penalty).
19.	***Hazara Singh v. Raj Kumar (2013) 9 SCC 516,*** It is the duty of the courts to consider all the relevant factors to impose an appropriate sentence. The legislature has bestowed upon the judiciary this enormous discretion in the sentencing policy, which must be exercised with utmost care and caution. The punishment awarded should be directly proportionate to the nature and the magnitude of the offence. The benchmark of proportionate sentencing can assist the Judges in arriving at a fair and impartial verdict." This Court further observed that the cardinal principle of sentencing policy is that the sentence imposed on an offender should reflect the crime he has committed and it should be proportionate to the gravity of the offence. This Court has repeatedly stressed the central role of proportionality in sentencing of offenders in numerous cases."
20.	***Soman v. State of Kerala, (2013) 11 SCC 382***, "Giving punishment to the wrongdoer is at the heart of the criminal justice delivery, but in our country, it is the weakest part of the administration of criminal justice. There are no legislative or judicially laid down guidelines to assist the trial court in meting out the just punishment to the accused facing trial before it after he is held guilty of the charges.
21.	***Gopal Singh v. State of Uttarakhand, (2013) 7 SCC 545***, Just punishment is the collective cry of the society and while collective cry has to be kept uppermost in mind, simultaneously the principle of proportionality between the crime and punishment cannot be totally brushed aside. Thus, the principle of just punishment is the bedrock of sentencing in respect of a criminal offence. No doubt there cannot be a straitjacket formula nor a solvable theory in mathematical exactitude. An offender cannot be allowed to be treated with leniency solely on the ground of discretion vested in a court.
22.	***Santosh Kumar Satishbhushan Bariyar v. State of Maharashtra, (2009) 6 SCC 498***, The court had articulated a two-step process to determine whether a case deserves the death sentence – "firstly, that the case belongs to the 'rarest of rare' category, and secondly, that the option of life imprisonment would simply not suffice." Noting that despite over four decades since Bachan Singh's case there has been little to no policy-driven change, towards formulating a scheme or system that elaborates

	how mitigating circumstances are to be collected, for the court's consideration and that scarce information about the accused at the time of sentencing, severely disadvantages the process of considering mitigating circumstances, the Bench opined, "Therefore, 'individualised, principled sentencing' – based on both the crime and criminal, with consideration of whether reform or rehabilitation is achievable, and consequently whether the option of life imprisonment is unquestionably foreclosed – should be the only factor of 'commonality' that must be discernible from decisions relating to capital offences
23.	***Sadhupati Nageswara Rao v. State of A.P., (2012) 8 SCC***, The court observed that the courts cannot take lenient view in awarding sentence on the ground of sympathy or delay as the same cannot furnish any ground for reduction of sentence.
24.	***Neel Kumar v. State of Haryana (2012) 5 SCC 766***, While commuting the awarded death sentence into a sentence of life imprisonment, it has been directed by this Court that convicts therein must serve a minimum of 30 years in jail without remissions, before the consideration of their respective cases for premature release.
25.	***Shivu v. High Court of Karnataka (2007) 4 SCC 713,*** The principle of "just deserts" was applied and the death penalty awarded to the convicts was upheld. The circumstances of the convicts were not considered for reducing the death penalty
26.	***Alister Anthony Pareira v. State of Maharashtra (2012) 2 SCC 648***, The principle of proportionality in sentencing a crime-doer is well entrenched in criminal jurisprudence. As a matter of law, proportion between crime and punishment bears most relevant influence in determination of sentencing the crime-doer. The court has to take into consideration all aspects including social interest and consciousness of the society for award of appropriate sentence.
27.	***State of U.P. v. Sanjay Kumar, (2012) 8 SCC 537***, Sentencing policy is a way to guide judicial discretion in accomplishing particular sentencing. Generally, two criteria, that is, the seriousness of the crime and the criminal history of the accused, are used to prescribe punishment. By introducing more uniformity and consistency into the sentencing process, the objective of the policy, is to make it easier to predict sentencing outcomes. Sentencing policies are needed to address concerns in relation to unfettered judicial discretion and lack of uniform and equal treatment of similarly situated convicts. The principle of proportionality, as followed in various judgments of this Court, prescribes that, the punishments should reflect the gravity of the offence and also the criminal background of the convict. Thus, the graver the offence and the longer the criminal record, the more severe is the punishment to be awarded
28.	***Sangeet v. State of Haryana AIR 2012 SC 447,*** The court expressed reservation regarding inconsistent and incoherent application of sentencing policy with respect to analyzing the aggravating and mitigating circumstances. The court critiqued the process of drawing a balance sheet of aggravating and mitigating circumstances and stated that they cannot be compared with each other as each of the factors are two distinct and different constituents of the incident.
29.	***C. Muniappan v. State of Tamil Nadu, (2010) 9 SCC 567***, Criminal law requires careful adherence to the rule of proportionality in imposing punishment based on the culpability of each type of criminal action, while bearing in mind the societal impact of not awarding just punishment.

30.	***Jameel v. State of U.P., (2010) 12 SCC 532***, Court held that the punishment should reflect the society's cry for justice against the criminals. The general policy which the courts have followed with regard to sentencing is that the punishment must be appropriate and proportional to the gravity of the offence committed. Imposition of appropriate punishment is the manner in which the courts respond to the society's cry for justice against the criminals. Justice demands that courts should impose punishment befitting the crime so that the courts reflect public abhorrence of the crime.
31.	***Ahmed Hussein Vali Mohammed Saiyed v. State of Gujarat (2009) 7 SCC 254***, The object of awarding appropriate sentence should be to protect the society and to deter the criminal from achieving the avowed object to (sic break the) law by imposing appropriate sentence. It is expected that the courts would operate the sentencing system so as to impose such sentence which reflects the conscience of the society and the sentencing process has to be stern where it should be. Any liberal attitude by imposing meagre sentences or taking too sympathetic view merely on account of lapse of time in respect of such offences will be result wise counterproductive in the long run and against the interest of society which needs to be cared for and strengthened by string of deterrence inbuilt in the sentencing system. Justice demands that courts should impose punishment befitting the crime so that the courts reflect public abhorrence of the crime. The court must not only keep in view the rights of the victim of the crime but the society at large while considering the imposition of appropriate punishment. The court will be failing in its duty if appropriate punishment is not awarded for a crime which has been committed not only against the individual victim but also against the society to which both the criminal and the victim belong.
32.	***State of M.P. v. Basodi, AIR 2009 SC 3081***, Sentence u/s 376 IPC less than minimum prescribed cannot be awarded on the ground that the accused was rustic and illiterate labourer belonging to scheduled tribe. Impact of offence on social order and public interest cannot be lost sight of while exercising such discretion.
33.	***State of MP v.. Kashiram, AIR 2009 SC 1642***, Punishment awarded by courts for crimes must not be irrelevant. It should conform to and be consistent with the atrocity and brutality with which crime was committed. It must respond to society's cry for justice and criminals.
34.	***State of M.P. v. Bablu Natt, 2009 2 SCC 272***, Mere existence of a discretion by itself does not justify its exercise. Discretion in awarding sentence should be exercised in a justified manner.
35.	***Sushil Kumar v.. State of Punjab, 2009 10 SCC 434,*** There have to be very special reasons to record death penalty and if mitigating factors in the case are stronger then it is neither proper nor justified to award death sentence and it would be sufficient to place it out of "rarest of rare category.
36.	***Harendra Nath Chakraborty v. State of W.B., 2009 2 SCC 758***, If the legislature has provided for a minimum sentence, the same should ordinarily be imposed save and except some exceptional causes which may justify awarding lesser sentence than the minimum prescribed.
37.	***State of Punjab v. Prem Sagar, (2008) 7 SCC 550*** , The court while awarding a sentence would take recourse to the principle of deterrence or reform or invoke the doctrine of proportionality, would no doubt depend upon the facts and circumstances of each case. While doing so, however, the nature of the offence said to have been committed by the accused plays an important role. The offences which affect public health must be dealt with severely. For the said purpose, the courts must notice the

	object for enacting Article 47 of the Constitution of India. There are certain offences which touch our social fabric. We must remind ourselves that even while introducing the doctrine of plea bargaining in the Code of Criminal Procedure, certain types of offences had been kept out of the purview thereof. While imposing sentences, the said principles should be borne in mind. What would be the effect of the sentencing on the society is a question which has been left unanswered by the legislature. The superior courts have come across a large number of cases which go to show anomalies as regards the policy of sentencing. Whereas the quantum of punishment for commission of a similar type of offence varies from minimum to maximum, even where same sentence is imposed, the principles applied are found to be different. Similar discrepancies have been noticed in regard to imposition of fine.
38.	***State of Karnataka v. Raju, (2007) 11 SCC 490***, The law regulates social interests, arbitrates conflicting claims and demands. Security of persons and property of the people is an essential function of the State. It could be achieved through instrumentality of criminal law. Undoubtedly, there is a cross-cultural conflict where living law must find answer to the new challenges and the courts are required to mould the sentencing system to meet the challenges. The contagion of lawlessness would undermine social order and lay it in ruins. Protection of society and stamping out criminal proclivity must be the object of law which must be achieved by imposing appropriate sentence. Therefore, law as a cornerstone of the edifice of 'order' should meet the challenges confronting the society. Friedman in his Law in Changing Society stated that: 'State of criminal law continues to be—as it should be—a decisive reflection of social consciousness of society.' Therefore, in operating the sentencing system, law should adopt the corrective machinery or deterrence based on factual matrix. By deft modulation, sentencing process be stern where it should be, and tempered with mercy where it warrants to be. The facts and given circumstances in each case, the nature of the crime, the manner in which it was planned and committed, the motive for commission of the crime, the conduct of the accused, the nature of weapons used and all other attending circumstances are relevant facts which would enter into the area of consideration.
39.	***Union of India v. Devendra Nath Rai, (2006) 2 SCC 243***, Undue sympathy to impose inadequate sentince would do more harm to the justice system to undermine the public confidence in the efficacy of law, and society could not long endure under such serious threats. It is, therefore, the duty of every court to award proper sentence having regard to the nature of the offence and the manner in which it was executed or committed etc.
40.	***Adu Ram v. Mukna and Ors., (2005) 10 SCC 597,*** Highlighted the principle of proportionality between crime and punishment and held that social impact of crime cannot be lost sight of and the offence of murderous assault under Section 300 read with Section 149, 304, Part I of I.P.C per se requires exemplary treatment. The criminal law adheres to the principle of criminal liability according to the culpability of each kind of criminal conduct. Thought the judges must affirm that punishment always fits to the crime but in practice sentences are generally determined by other considerations. Sometimes correctional needs of the perpetrator justify leniency in sentencing. The Court lamented that the practice of punishing serious crimes with equally severe punishment is now unknown to the civil societies and there has been a departure from the principle of proportionality in recent times. The recent Court notes that imposition of sentence without considering its effect on the social order leads to some undesirable practical consequences. Particularly, crimes against women, children, dacoity, treason, misappropriation of public money and offences involving moral turpitude

	have great impact on social order, and per se require exemplary punishment in public interest. Any liberal attitude by imposing lenient sentences or taking sympathetic view on account of lapse of time in respect of such offences will be counter-productive in the long run and will jeopardizes the social interest which needs to be strengthened by the string of deterrence inbuilt in the sentencing system
41.	***Ajmer Singh v. State of Punjab, (2005) 6 SCC 633***, In reducing the sentence awarded by the lower court, it has been held by the Court that while reducing the sentence to period already undergone, courts should categorically notice and state the period actually undergone by the accused.
42.	***P. Prabhakaran v. P. Jayarajan, AIR 2005 SC 688***, the direction by the court for the sentence to run concurrently or consecutively is in the discretion of the court and that does not affect the nature of the sentence.
43.	***Mohd. Munna v. Union of India, (2005) 7 SCC 417***, Interpreting the provisions u/s 53, 53-A, 55, 57 of the IPC, the Court has held that the expression "life imprisonment" is not equivalent to imprisonment for 14 years or 20 years. "Life imprisonment" means imprisonment for the whole of the remaining period of the convicted person's natural life. There is no provision either in IPC or in CrPC whereby life imprisonment could be treated as 14 years or 20 years without their being a formal remission by the appropriate government.
44.	***State of M.P. v. Munna Choubey (2005) 2 SCC 710***, Imposition of sentence without considering its effect on the social order in many cases may be in reality a futile exercise. The social impact of the crime e.g. where it relates to offences against women, dacoity, kidnapping, misappropriation of public money, treason and other offences involving moral turpitude or moral delinquency which have great impact on social order and public interest, cannot be lost sight of and per se require exemplary treatment. Any liberal attitude by imposing meagre sentences or taking too sympathetic view merely on account of lapse of time in respect of such offences will be resultwise counterproductive in the long run and against societal interest which needs to be cared for and strengthened by string of deterrence inbuilt in the sentencing system.
45.	***State of U.P. v. Shri Kishan, (2005) 10 SCC 420***, The court has emphasized that just and proper sentence should be imposed. Any liberal attitude by imposing meagre sentences or taking too sympathetic view merely on account of lapse of time in respect of such offences will be result wise counterproductive in the long run and against societal interest which needs to be cared for and strengthened by string of deterrence inbuilt in the sentencing system. The court will be failing in its duty if appropriate punishment is not awarded for a crime which has been committed not only against the individual victim but also against the society to which the criminal and victim belong. The punishment to be awarded for a crime must not be irrelevant but it should conform to and be consistent with the atrocity and brutality with which the crime has been perpetrated, the enormity of the crime warranting public abhorrence and it should 'respond to the society's cry for justice against the criminal'."
46.	***Deo Narain Mandal v. State of UP (2004) 7 SCC 257***, Sentence should not be either excessively harsh or ridiculously low. While determining the quantum of sentence, the court should bear in mind the principle of proportionality. Sentence should be based on facts of a given case. Gravity of offence,

	manner of commission of crime, age and sex of accused should be taken into account. Discretion of court in awarding sentence cannot be exercised arbitrarily or whimsically.
47.	***Dalbir Singh v. State of Haryana (2000) 5 SCC 82***, While considering the quantum of sentence, to be imposed for the offence of causing death by rash or negligent driving of automobiles, one of the prime considerations should be deterrence. A professional driver pedals the accelerator of the automobile almost throughout his working hours. He must constantly inform himself that he cannot afford to have a single moment of laxity or inattentiveness when his leg is on the pedal of a vehicle in locomotion. He cannot and should not take a chance thinking that a rash driving need not necessarily cause any accident; or even if any accident occurs it need not necessarily result in the death of any human being; or even if such death ensues he might not be convicted of the offence; and lastly that even if he is convicted he would be dealt with leniently by the court. He must always keep in his mind the fear psyche that if he is convicted of the offence for causing death of a human being due to his callous driving of vehicle he cannot escape from jail sentence. This is the role which the courts can play, particularly at the level of trial courts, for lessening the high rate of motor accidents due to callous driving of automobiles.
48.	***Jai Kumar v. State of M.P., (1999) 5 SCC 1,*** The court held that, the measure of punishment in a given case must depend upon the atrocity of the crime; the conduct of the criminal and the defenceless and unprotected state of the victim. Imposition of appropriate punishment is the manner in which the courts respond to the society's cry for justice against the criminals. Justice demands that courts should impose punishment befitting the crime so that the courts reflect public abhorrence of the crime. The courts must not only keep in view the rights of the criminal but also the rights of the victim of crime and the society at large while considering imposition of appropriate punishment."
49.	***Ravji alias Ram Chandra v. State of Rajasthan, (1996) 2 SCC 175,*** It was observed by the Court "The crimes had been committed with utmost cruelty and brutality without any provocation, in a calculated manner. It is the nature and gravity of the crime but not the criminal, which are germane for consideration of appropriate punishment in a criminal trial."
50.	***State of Punjab v. Bira Singh, 1995 Supp (3) SCC 708***, The Court held that at the time of awarding the sentence, the court should not adopt the lenient view and show misplaced sympathy. When courts give such lenient punishments, the value of deterrence of the punishment greatly reduces thereby encouraging rather than discouraging a criminal, allowing the whole society to suffer.
51.	***State of A.P. v. Bodem Sundara Rao (1995) 6 SCC 230***, The courts have an obligation while awarding punishment to impose appropriate punishment so as to respond to the society's cry for justice against such criminals. Public abhorrence of the crime needs a reflection through the court's verdict in the measure of punishment. The courts must not only keep in view the rights of the criminal but also the rights of the victim of crime and the society at large while considering imposition of the appropriate punishment.
52.	***Suresh Chandra Bahri v. State of Bihar, AIR 1994 SC 2420,*** The critique of judicial sentencing has taken several forms: it is inequitable as reflected in disparate sentences; it is ineffectual; or it is unfair because it is either inadequate or, in some situations, cruel. It has frequently been stated that there is a significant disparity in punishing an accused who has been found guilty of some offence."

53.	***Dhananjoy Chatterjee Dhana v. State of West Bengal, 1994 2 SCC 220***, "In recent years, the rising crime rate-particularly violent crime against women has made the criminal sentencing by the courts a subject of concern. Today there are admitted disparities. Some criminals get very harsh sentences while many receive grossly different sentence for an essentially equivalent crime and a shockingly large number even go unpunished, thereby encouraging the criminal and in the ultimate making justice suffer by weakening the system's credibility. Of course, it is not possible to lay down any cut and dry formula relating to imposition of sentence but the object of sentencing should be to see that the crime does not go unpunished and the victim of crime as also the society has the satisfaction that justice has been done to it.
54.	***Sevaka Perumal v. State of T.N. (1991) 3 SCC 471***, Undue sympathy to impose inadequate sentence would do more harm to the justice system to undermine the public confidence in the efficacy of law, and society could not long endure under such serious threats. It is, therefore, the duty of every court to award proper sentence having regard to the nature of the offence and the manner in which it was executed or committed, etc. This position was illuminatingly stated by this Court in
55.	***Allauddin Mian v. State of Bihar, (1989) 3 SCC 5***, The sentencing court must approach the question seriously and must endeavour to see that all the relevant facts and circumstances bearing on the question of sentence are brought on record. Only after giving due weight to the mitigating as well as the aggravating circumstances placed before it, it must pronounce the sentence.
56.	***Prem Kumar Parmar v. State 1989 RLR 131,*** The economic offences having deep rooted conspiracies and involving huge loss of public funds whether of nationalized banks or of the State and its instrumentalities need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of our country. Therefore, the persons involved in such offences, particularly those who continue to reap the benefit of the crime committed by them, do not deserve any indulgence and any sympathy to them would not only be entirely misplaced but also against the larger interest of the society. The Court cannot be oblivious to the fact that such offences are preceded by cool, calculated and deliberate design, with an eye on personal gains, and in fact, not all such offences come to the surface. If a person knows that even after misappropriating huge public funds, he can come out on bail after spending a few months in jail, and thereafter, he can continue to enjoy the ill-gotten wealth, obtained by illegal means, that would only encourage many others to commit similar crimes in the belief that even if they have to spend a few months in jail, they can lead a lavish and comfortable life thereafter, utilizing the public funds acquired by them.
57.	***Mithu v. State of Punjab, (1983) 2 SCC 277***, The court held that it is because the court has an option to impose either of the two alternative sentences, subject to the rule that the normal punishment for murder is life imprisonment, that it is important to hear the accused on the question of sentence.
58.	***Earabhadrappa v. State of Karnataka (1983) 2 SCC 330***, A sentence or pattern of sentence which fails to take due account of the gravity of the offence can seriously undermine respect for law. It is the duty of the court to impose a proper punishment depending upon the degree of criminality and desirability to impose such punishment as a measure of social necessity as a means of deterring other potential offenders.

59.	***Deen Dayal v. Unioan of India, AIR 1983 SC 1155,*** The court held that the method prescribed by section 354(5) of the Criminal Procedure Code for executing the death sentence does not violate Article 21 of the Constitution.
60.	***Machi Singh and others v. State of Punjab, AIR 1983 SC 957****,* The court elucidated the doctrine of 'rarest of rare.' The Court laid down certain guidelines pertaining to the parameters to be considered when deciding whether a case falls under the purview of the 'rarest of the rare' The guidelines are as follows: • Modus operandi: The Court stated that if the crime committed is extremely brutal and heinous that it shocks the collective conscience of the society, it would fall under the purview of the 'rarest of the rare' cases. • The motive for committing the crime: When the crime is committed using a deliberate design to kill the victim brutally, or assassins are hired to torture and kill the victim, or the act is done to betray the nation, it would fall under the purview of 'rarest of rare' case. • The severity of the crime: The gravity of the crime must be taken into account. For example, murdering every member living in a particular locality or all the members of a family. • Victim of the crime: If the victim of the crime is vulnerable, that is, a minor, a senile person, an insane person; or the victim is an influential figure that has received much love from society, the crime would then also fall under the purview 'rarest of the rare' case. • Balance sheet: A balance sheet must be prepared taking into account the aggravating and mitigating circumstances of the case. The mitigating circumstances have to be given full weightage and a balance must be struck between the aggravating and the mitigating circumstances, before making the final decision.
61.	***Muniappan v. State of Tamil Nadu, (1981) 3 SCC 11***, The obligation to hear the accused on the question of sentence which is imposed by Section 235(2) of the Criminal Procedure Code is not discharged by putting a formal question to the accused as to what he has to say on the question of sentence. The judge must make a genuine effort to elicit from the accused all information which will eventually bear on the question of sentence. All admissible evidence is before the judge but that evidence itself often furnishes a clue to the genesis of the crime and the motivation of the criminal. It is the bounden duty of the judge to cast aside the formalities of the court scene and approach the question of sentence from a broad, sociological point of view. The occasion to apply the provisions of Section 235(2) arises only after the conviction is recorded. What then remains is the question of sentence in which not merely the accused but the whole society has a stake. Questions which the judge can put to the accused under Section 235(2) and the answers which the accused makes to those questions are beyond the narrow constraints of the Evidence Act. The court, while on the question of sentence, is in an altogether different domain in which facts and factors which operate are of an entirely different order than those which come into play on the question of conviction. The Sessions Judge, in the instant case, complied with the form and letter of the obligation which Section 235(2) imposes, forgetting the spirit and substance of that obligation."
62.	***Maru Ram v. Union of India, (1981) 1 SCC 107***, The court examined Section 433A of the CrPC, a provision brought in place a mandatory minimum of 14 years before which a person sentenced to life imprisonment for a capital offence could be considered for remission. It held the law to be

	constitutionally valid, as it was neither arbitrary nor irrational. The Court further laid down the law that life imprisonment meant imprisonment till the end of life, subject to the appropriate government choosing to release the prisoner in terms of Section 433A of the CrPC.
63.	***Bachan Singh v. State of Punjab, (1980) 2 SCC 684***, The majority upheld the constitutionality of the death sentence, on the condition that it could be imposed in the "rarest of rare" cases. The Court, being conscious of the safeguard of a separate hearing on the question of sentence, articulated it as a valuable right, which ensures to a convict, to urge why in the circumstances of his or her case, the extreme penalty of death ought not to be imposed. The Court noted, "The present legislative policy discernible from Section 235 (2) read with Section 354 (3) is that in fixing the degree of punishment or making the choice of sentence for various offences the Court should not confine its consideration "principally" or merely to the circumstances connected with a particular crime, but also give due consideration to the circumstances of the criminal." Principles laid down in the case: • The extreme penalty of death need not be inflicted except in gravest cases of extreme culpability; • Before opting for the death penalty the circumstances of the 'offender' also require to be taken into consideration along with the circumstances of the 'crime'. • Life imprisonment is the rule and death sentence is an exception. In other words death sentence must be imposed only when life imprisonment appears to be an altogether inadequate punishment having regard to the relevant circumstances of the crime, and provided, and only provided the option to impose sentence of imprisonment for life cannot be conscientiously exercised having regard to the nature and circumstances of the crime and all the relevant circumstances. • A balance sheet of aggravating and mitigating circumstances has to be drawn up and in doing so the mitigating circumstances has to be accorded full weightage and a just balance has to be struck between the aggravating and the mitigating circumstances before the option is exercised.
64.	***Dagdu v. State of Maharashtra, (1977) 3 SCC 68***, The court rejected the interpretation as laying down that failure on the part of the court to hear a convicted accused, on the question of sentence, would necessitate remand to the trial court. Instead, it held that such an omission could be remedied by the higher court by affording a hearing to the accused on the question of sentence, provided the hearing was "real and effective" wherein the accused was permitted to "adduce before the court all the data which he desires to be adduced on the question of sentence".
65.	***Mohd. Giasuddin v. State of A.P., 1977 3 SCC 287,*** There is a great discretion vested in the Judge, especially when pluralistic factors, enter his calculations even so, the judge must exercise this discretionary power, drawing his inspiration from the humanitarian spirit of the law, and living down the traditional precedents which have winked at the personality of the crime doer and been swept away by the features of the crime. What is dated has to be discarded. What is current has to, be incorporated. Therefore innovation, in all conscience, is in the field of judicial discretion. Unfortunately, the Indian Penal Code still lingers in the somewhat compartmentalized system of punishment viz. imprisonment simple or rigorous, fine and, of course, capital sentence. There is a wide range of choice and flexible treatment which must be available with the judge if he is to fulfil his tryst with cruing the criminal in a hospital setting. Maybe in an appropriate case actual hospital treatment may have to be prescribed as part of the sentence. In another case, liberal parole may have to be suggested and, yet in a third category, engaging in certain types of occupation or even going

	through meditational drills or other courses may be part of the sentencing prescription. The perspective having changed, the legal strategies and judicial resources, in their variety, also have to change. Rule of thumb sentences of rigorous imprisonment or other are too insensitive to the highly delicate and subtle operation expected of a sentencing judge. Release on probation, conditional sentences, visits to healing centres, are all on the cards. Sentencing justice is a facet of social justice, even as redemption of a crime-doer is an aspect of restoration of a whole personality. Till the new code recognized statutorily that punishment required considerations beyond the nature of the crime and circumstances surrounding the crime and provided a second stage for bringing in such additional materials, the Indian courts had, by and large, assigned an obsolescent backseat to the sophisticated judgment on sentencing. Now this judicial skill has to come of age.
66.	***Santa Singh v. State of Punjab, (1976) 4 SCC 190***, The court had held that a separate stage should be provided after conviction when the court can hear the accused in regard to the factors bearing on sentence and then pass proper sentence on the accused—the nature of the offence, the circumstances of the offence (extenuating or aggravating), the prior criminal record of the offender, the age of the offender, the record of the offender as to employment, the background of the offender with reference to education, home life, sobriety and social adjustment, the emotional and mental condition of the offender, the prospects for the rehabilitation of the offender, the possibility of return of the offender to a normal life in the community, the possibility of treatment or training of the offender, the possibility that the sentence may serve as a deterrent to crime by the offender or by others and the current community need, if any, for such a deterrent in respect to the particular type of offence. In the aforesaid case, The Court had also noted, "of course, care would have to be taken by the court to see that this hearing on the question of sentence is not abused and turned into an instrument for unduly protracting the proceedings. The claim of due and proper hearing 8 would have to be harmonized with the requirement of expeditious disposal of proceedings."
67.	***Ramashraya Chakravarti v. State of Madhya Pradesh, AIR 1976 SC 392,*** To adjust the duration of imprisonment to the gravity of a particular offence is not always an easy task. It is always a matter of judicial discretion subject to any mandatory minimum prescribed by law. In judging the adequacy of a sentence, the nature of the offence, the circumstances of its commission, the age and character of the offender, injury to individuals or to Society, effect of the punishment on the offender, eye to correction or reformation of the offender, are some amongst many other factors which would be ordinarily taken into consideration by courts.
68.	***Ediga Anamma v. State of A.P., 1974 4 SCC 443,*** The punitive dilemma begins when the guilt is established. Modern penology regards crime and criminal as equally material when the right sentence has to be picked out, although in our processual system there is neither comprehensive provision nor adequate machinery for collection and presentation of the social and personal data of the culprit to the extent required in the verdict on sentence. In any scientific system which turns the focus, at the sentencing stage, not only on the crime but also the criminal, and seeks to personalise the punishment so that the reformatory component is as ,much operative as the deterrent element, it is essential that facts of a social and personal nature, sometimes altogether irrelevant if not injurious at the stage of fixing the guilt, may have to be brought to the notice of the Court when the actual sentence is determined

69.	***B.G. Goswami v. Delhi Administration (1974) 3 SCC 85***, In absence of guidelines, it is necessary to weigh and balance various considerations with a judicial mind. Broadly, the main purpose of the sentence is that the accused should realise that he has not only committed a harmful act to the society of which he is also an integral part but the act is also harmful to his own future, both as a member of the society and as an individual.
70.	***Jagmohan Singh v. State of U.P (1973) 1 SCC 20***, It was held that a balanced approach of considering the aggravating and mitigating factors should be considered while deciding on the question of capital punishment.
71.	***D.R. Bhagare v. State of Maharashtra, AIR 1973 SC 476,*** The Court held that the question of sentencing is a matter of judicial discretion. The relevant considerations in determining the sentence, broadly stated, include the motive for and the magnitude of the offence and the manner of its commission.
72.	***Gopal Vinayak Godse v. State of Maharashtra, AIR 1961 SC 600,*** The Court held that sentence of imprisonment for life is one of "imprisonment for the whole of the remaining period of the convicted person's natural life"

Additional References:

1. ***Purnesh Modi v. Rahul Gandhi***, Court convicted Congress leader and MP Rahul Gandhi in a defamation case for his remarks made during a political campaign in Karol in April 2019.
2. ***Radheshyam Bhagwandas Shah @ Lala v. State of Gujarat, Writ Petition(CRL.) No(S). 135 OF 2022,*** The appropriate Government can be either the Central or the State Government but there cannot be a concurrent jurisdiction of two State Governments under Section 432(7) CrPC. 14. In the instant case, once the crime was committed in the State of Gujarat, after the trial been concluded and judgment of conviction came to be passed, all further proceedings have to be considered including remission or pre-mature release, as the case may be, in terms of the policy which is applicable in the State of Gujarat where the crime was committed and not the State where the trial stands transferred and concluded for exceptional reasons under the orders of this Court.
3. ***Bilkis Yakub Rasool v. Union of India & Others, Writ Petition (Crl.) No(S).135 of 2022***, In the order dismissing the review petition, the bench observed that "there appears no error apparent on the face of the record, which may call for review of the judgment dated 13th May 2022". The bench further opined that the precedents cited in the review petition are of no assistance to the petitioner.

SESSION 2

LAW RELATING TO PROBATION: AN OVERVIEW

4.	Dr. Durgambini A. Patel & Nthenge Paul Musila***, Unforgotten Value of Probation, a Golden Treasure-Law and Reality,*** 3(1) Indian Journal of Law and Justice 9-19 (March, 2012)	**519**
5.	N.K. Chakrabarti, ADMINISTRATION OF CRIMINAL JUSTICE, Deep & Deep Publications (1997) (excerpts) • ***Probation System: An overview*** pp. 32-42…… • ***Probation in the Administration of Criminal Justice*** pp. 64-79……	**532** **545**
CASE LAW *(Judgments mentioned below includes citation and short note for reference and discussion purpose during the course of the programme. Please refer the full judgment for conclusive opinion)*		
1.	***Vipul v. State of Uttar Pradesh; (2022) SCC Online SC 1686,*** "Section 360 pertains to an order after conviction, to be passed by the Court after admonition, facilitating a release and also probation of good conduct. It is to be exercised on two categories of persons. The first category consists of persons attaining 21 years and above with the proposed punishment for a term of 7 years or less. While the other for a larger term except punishable with death or imprisonment for life. This is made applicable to a convict aged under 21 years or any woman. The Court has to weigh the age, character and antecedent of the convict with the circumstances leading to the offence committed. If satisfied, it can release the convict entering into a bond while a direction to keep the peace and maintain good behavior can be ordered during the said period. As discussed, this provision can be pressed into service while dealing with chapter-XXIA other than convicting a person after trial. Like the other two provisions involving plea bargaining and compounding, Sec. 360 of the Code is also a forgotten one.	
2.	***Som Dutt and others v. State of Himachal Pradesh; (2022) 6 SCC 722,*** Having regard to sentence imposed by the Courts below on the appellants for the offence U/S.379 r/w Section-34 of IPC, and having regard to the fact that there are no criminal antecedents against the appellants, the Court is inclined to give them the benefit of releasing them on probation of good conduct.	
3.	***Lakhvir Singh v. State of Punjab, (2021) 2 SCC 763*** The Statement of Objects and Reasons of the said Act explains the rationale for the enactment and its amendments: to give the benefit of release of offenders on probation of good conduct instead of sentencing them to imprisonment. Thus, increasing emphasis on the reformation and rehabilitation of offenders as useful and self-reliant members of society without subjecting them to the deleterious effects of jail life is what is sought to be sub served… Section 6 of the said Act, as per its own title, provides for restrictions on imprisonment of offenders under twenty-one years of age. A view was taken by a four-Judge Bench of this Court in Ramji Missar v. State of Bihar AIR 1963 SC 1088, while seeking to apply the said provision to offenders who were under the age of 21 years on the date of sentencing and not on the date of commission of offence. The rationale is that the underlying purpose of the provision being reformative — Section 6 being a special provision enacted to prevent the confinement of young persons under 21 years of age in jail, to protect them from the pernicious influence of hardened criminals.	
4.	***Lakhanlal v. State of M.P., (2021) 6 SCC 100***, Section 360(1) of the Code contemplates as to which offenders are entitled to the benefit of probation and on what conditions. It contemplates that firstly,	

	if any person not under twenty-one years of age is convicted of an offence punishable with fine only or with imprisonment for a term of seven years or less; and secondly, when any person under twenty-one years of age or any woman is convicted of an offence not punishable with death or imprisonment for life, is entitled to the benefit of probation. Both categories of offenders have to further satisfy that he is not a previous convict; satisfaction of the court having regard to the age, character or antecedents of the offender and to the circumstances in which the offence was committed. The court being satisfied can order, instead of sentencing him at once to any punishment, that he be released on his entering into a bond with or without sureties, to appear and receive sentence when called upon during such period (not exceeding three years) and in the meantime to keep the peace and be of good behaviour. The object of Section 360 of the Code is to prevent young persons from being committed to jail, who have for the first time committed crimes through ignorance, or inadvertence or the bad influence of others and who, but for such lapses, might be expected to be good citizens.
5.	***Raju Jagdish Paswan v. State of Maharashtra, (2019) 16 SCC 380***, The Court dwelt upon what steps were taken by the State for reformation and rehabilitation of the prisoners. The Court directed the States to consider implementing the reformative and rehabilitation programmes contained in the 2016 Manual. In addition, it is open to the States to adopt any other correctional measures.
6.	***Mohd. Hashim v. State of U.P., (2017) 2 SCC 198***, The court before exercising the power under Section 4 of the PO Act has to keep in view the nature of offence and the conditions incorporated under Section 4 of the PO Act. Be it stated in *Dalbir Singh* v. *State of Haryana* [*Dalbir Singh* v. *State of Haryana*, (2000) 5 SCC 82 : 2004 SCC (Cri) 1208 : AIR 2000 SC 1677] it has been held that Parliament has made it clear that only if the Court forms the opinion that it is expedient to release the convict on probation for the good conduct regard being had to the circumstances of the case and one of the circumstances which cannot be sidelined in forming the said opinion is "the nature of the offence". The Court has further opined that though the discretion has been vested in the court to decide when and how the court should form such opinion, yet the provision itself provides sufficient indication that releasing the convicted person on probation of good conduct must appear to the Court to be expedient…. the word "expedient" is used in Section 4 of the PO Act in the context of casting a duty on the court to take into account "the circumstances of the case including the nature of the offence…". This means Section 4 can be resorted to when the court considers the circumstances of the case, particularly the nature of the offence, and the court forms its opinion that it is suitable and appropriate for accomplishing a specified object that the offender can be released on probation of good conduct.
7.	***Birju v. State of M.P., (2014) 3 SCC 421***, The Court explained the necessity of considering the probability of reform and rehabilitation of the convict by referring to the provisions of the Probation of Offenders Act, 1958 where a convict is placed under probation in a case where there is a possibility of reform. In the instant case, the High Court took the view that there was no probability that the accused would not commit criminal acts of violence and would constitute a continuing threat to the society and there would be no probability that the accused could be reformed or rehabilitated. … Courts used to apply reformative theory in certain minor offences and while convicting persons, the courts sometimes release the accused on probation in terms of Section 360 CrPC and Sections 3 and 4 of the Probation of Offenders Act, 1958. Sections 13 and 14 of the Act provide for appointment of Probation Officers and the nature of duties to be performed. Courts also, while exercising power under Section 4, call for a report from the Probation Officer. In our view, while awarding sentence,

	in appropriate cases, while hearing the accused under Section 235(2) CrPC, courts can also call for a report from the Probation Officer,…Courts can then examine whether the accused is likely to indulge in commission of any crime or there is any probability of the accused being reformed and rehabilitated."
8.	***Anil v. State of Maharashtra, (2014) 4 SCC 69,*** this Court implemented the reform and rehabilitation theory. In fact, in para 33 of the Report a direction was issued that while dealing with offences like Section 302 IPC, the criminal courts may call for a report to determine whether the convict could be reformed or rehabilitated. This Court noted the duty of the criminal courts to ascertain whether the convict can be reformed and rehabilitated and it is the obligation of the State to furnish materials for and against the possibility of reform and rehabilitation.
9.	***Sanjay Dutt v. State of Maharashtra (2013) 15 SCC 240,*** To the effect that Section 360 Cr.P.C. and Sections 3,4 and 12 of the P.O. Act with significant differences could not be intended to co-exist at the same time in the same area and that such co-existence would lead to anomalous results, were made without noticing sub-section (10) of Section 360 Cr.P.C**.**
10.	***Yakub Abdul Razak Memon v. State of Maharashtra, (2013) 13 SCC 1****,* The scope of Section 4 of the Probation of Offenders Act is much wider. It applies to any person found guilty of having committed an offence not punishable with death or imprisonment for life. The same has also been held by this Court in *Chhanni* v. *State of U.P.* [(2006) 5 SCC 396 : (2006) 2 SCC (Cri) 466. Section 360 of the Code of Criminal Procedure does not provide for any role for probation officers in assisting the courts in relation to supervision and other matters while the Probation of Offenders Act does make such a provision. While Section 12 of the Probation of Offenders Act states that a person found guilty of an offence and dealt with under Section 3 or 4 of the Probation of Offenders Act, shall not suffer disqualification, if any, attached to the conviction of an offence under any law. The Code of Criminal Procedure does not contain parallel provision. Two statutes with such significant differences could not be intended to coexist at the same time in the same area. Such coexistence would lead to anomalous results. The intention to retain the provisions of Section 360 of the Code and the Probation of Offenders Act as applicable at the same time in a given area cannot be gathered from the provisions of Section 360 or any other provisions of the Code. Section 4 of the Probation of Offenders Act applies to all kinds of offenders, whether under or above the age of 21 years. This section is intended to attempt possible reformation of an offender instead of inflicting upon him the normal punishment of his crime. It is submitted that it is settled law that while extending benefit of the said provision, this Court has to exercise its discretion having regard to the circumstances in which the crime was committed viz. the age, character and antecedents of the offender. It is also settled law that such exercise of discretion needs a sense of responsibility. The section itself is clear that before applying the same, this Court should carefully take into consideration the attendant circumstances.
11.	***State of Punjab v. Prem Sagar, (2008) 7 SCC 550,*** The Apex Court held that the High Court, however, by reason of the impugned judgment purported to be upon taking into consideration the fact that the offence was committed in the year 1987 and the appeal was dismissed in the year 1992, thought it fit to give an opportunity to the respondents to reform themselves, observing: "… The accused have suffered lot of agony of protracted trial. They having joined the mainstream must have expressed repentance over the misdeed done by them about 19 years back. In

	the aforesaid circumstances and in the absence of any of their bad antecedents, it will not be appropriate to deny them the benefit of probation under the Probation of Offenders Act, 1958 and to send them to jail at this stage." On the said premise, the respondents were directed to be released on probation on their executing a bond of Rs 20,000 with one surety each of the like amount to the satisfaction of the trial Judge. No report of the probation officer was called for. The social background of the respondents had not been taken into consideration. What was their occupation was not noticed.
12.	***Gulzar v. State of M.P. (2007) 1 SCC 619,*** Where the provisions of the Probation of Offenders Act (for short the "P.O. Act") are applicable , the employment of Section 360 Cr.P.C. is not to be made. In cases of such application, it would be an illegality resulting in highly undesirable consequences, which the legislature, who gave birth to the P.O. Act and the Code of Criminal Procedure, wanted to obviate. The provisions of the P.O. Act have a paramountcy of their own in the respective areas where they are applicable**.**
13.	***Chhanni v. State of U.P., (2006) 5 SCC 396,*** Where the provisions of the Probation Act are applicable the employment of Section 360 of the Code is not to be made. In cases of such application, it would be an illegality resulting in highly undesirable consequences, which the legislature that gave birth to the Probation Act and the Code wanted to obviate. Yet the legislature in its wisdom has obliged the Court under Section 361 of the Code to apply one of the other beneficial provisions; be it Section 360 of the Code or the provisions of the Probation Act. It is only by providing special reasons that their applicability can be withheld by the Court. The comparative elevation of the provisions of the Probation Act are further noticed in sub-section (10) of Section 360 of the Code which makes it clear that nothing in the said section shall affect the provisions of the Probation Act. Those provisions have a paramount of their own in the respective areas where they are applicable.
14.	***Daljit Singh v. State of Punjab, (2006) 6 SCC 159,*** Section 360 of the Code relates only to persons not under 21 years of age convicted for an offence punishable with fine only or with imprisonment for a term of seven years or less, to any person under 21 years of age or any woman convicted of an offence not punishable with sentence of death or imprisonment for life. The scope of Section 4 of the Probation Act is much wider. It applies to any person found guilty of having committed an offence not punishable with death or imprisonment for life. Section 360 of the Code does not provide for any role for the probation officers in assisting the courts in relation to supervision and other matters while the Probation Act does make such a provision. While Section 12 of the Probation Act states that the person found guilty of an offence and dealt with under Section 3 or 4 of the Probation Act shall not suffer disqualification, if any, attached to conviction of an offence under any law, the Code does not contain parallel provision. Two statutes with such significant differences could not be intended to coexist at the same time in the same area. Such coexistence would lead to anomalous results. The intention to retain the provisions of Section 360 of the Code and the provisions of the Probation Act as applicable at the same time in a given area cannot be gathered from the provisions of Section 360 or any other provision of the Code. Therefore, by virtue of Section 8(1) of the General Clauses Act, where the provisions of the Act have been brought into force, the provisions of Section 360 of the Code are wholly inapplicable.
15.	***Harivallabha and another v. State of M.P. (2005) 10 SCC 330***, A Court can refuse to release a person on probation of good conduct U/S.360 of the Cr.P.C., but in the facts and circumstances of the case, the appellants should have been dealt with under the provisions of Sec.360 of the Cr.P.C

16.	***State of Maharashtra v. Jagmohan Singh Kuldip Singh Anand & Ors., (2004) 7 SCC 659,*** keeping in view the fact that the incident took place about 28 years ago, the parties are neighbours residing in the same village, informant has filed affidavit before this court that their relations have become normal and they are residing peacefully in the village, he does not 7 wants the enmity to be revived, this court feels that the appellants should be given benefit of Section 4 of the Probation of Offenders Act, 1958 in this appeal while upholding the judgment and order of the trial court
17.	***State of M.P. and Another v. Bhola, (2003) 3 SCC 1***, The benefit of release on probation for good conduct in prison is to be made available not to all but to "certain prisoners" meaning prisoners of a particular class. Thus they can be classified in relation to the offences committed by them for which they are sentenced. Reformative system of punishment by releasing prisoners on the basis of their good conduct in prison and for turning them out as good citizens after they serve out their periods of sentences is not to be resorted to indiscriminately without reference to the nature of offence for which they are convicted. It is open to the legislature to lay down a general policy permitting reformative method of punishment but by limiting its application to less serious crimes. Gravity of offence is an integral dimension in deciding whether a prisoner should be released or not. If we see the offences mentioned in rule 3(a) U.P. Prisoners' Release on Probation Rules, in the category of exclusion therein are such serious or heinous offences which are against community and society in general where even release on probation may be found hazardous because of the possibility of the crime being repeated or the prisoner escaping. Habitual offenders or those dealing in explosive substances or involved in dacoities and robberies are treated as criminals guilty of heinous crimes who deserve to be treated differently from other offenders guilty of less serious crimes. The offenders could be classified thus reasonably with the object to be fulfilled of reformation of those prisoners who show prospects of some reform.
18.	***Prakash Dhawal Khairnar Patil v. State of Maharashtra (2002) 2 SCC 35,*** The probability of reform and rehabilitation of the convict was considered by this Court. It was held that the convict did not have any criminal tendency and was gainfully employed. Though the crime was heinous, it would be difficult to hold that it was the rarest of rare cases. It could not be held that the appellant would be a menace to society and there was no reason to believe that he could not be reformed or rehabilitated. Accordingly, the death penalty was converted into imprisonment for 20 years.
19.	***Jagat Pal Singh & others v. State of Haryana, AIR 2000 SC 3622,*** The Hon'ble Apex Court has given the benefit of probation while upholding the conviction of accused persons under Sections 323, 452, 506 IPC and has released the accused persons on executing a bond before the Magistrate for maintaining good behaviour and peace for the period of six months.
20.	***Rama Murthy v. State of Karnataka, (1997) 2 SCC 642***, Court highlighted the literature on prison justice and prison reform shows that there are nine major problems which afflict the system and which need immediate attention. These are: (1) overcrowding; (2) delay in trial; (3) torture and ill-treatment; (4) neglect of health and hygiene; (5) insubstantial food and inadequate clothing; (6) prison vices; (7) deficiency in communication; (8) streamlining of jail visits; and (9) management of open-air prisons. The Apex Court dealt with each of the problems separately and expressed their views as what could reasonably be done and should be done to take care of the same.
21.	***State of Himachal Pradesh v. Lal Singh, 1990 CriLJ 723***, The reason why the Legislature has allowed two different sets of law to remain on the Statute Book is not far to seek. The provisions of

	the Probation of Offenders Act, 1958 are more beneficial and result-oriented and wider in scope and applicability for "the reformation and rehabilitation of the offender as a useful and self-reliant member of society without subjecting him to the deleterious effects of jail life" than the provisions of Section 360.
22.	***Hari Kishan (Singh) and State of Haryana v. Sukbir Singh and others (AIR 1988 SC 2127),*** The accused convicted under Ss.323, 325 read with Ss. 148,149 I.P.C. but the occurrence was outcome of sudden flare up and there was no previous enmity between parties. The Supreme Court held that the accused is entitled to benefit of probation. However, the Supreme Court refused to grant probation in the following cases where the accused connected for offences of Food Adulteration Act, Smuggling of Gold, Offences under Defence of India Act, 1962, Abduction of a teenager girl, and Offence relating to insult of member of Lower Caste, etc
23.	***T. Sushila Patra v. State (1987) SCC Online Ori 144***, There is no doubt that the provisions of the Essential Commodities Act in certain circumstances prescribed imposition of a minimum sentence and it is undoubtedly a special statute, but neither of those two conditions totally bars the discretion of the Court to grant probation to the convict either under the criminal procedure code or even under the relevant Sections of the Probation of Offenders Act.
24.	***Ippili Trinaha Rao v. State of A.P. (1984 Cri.L.J.1254 Andhra)*** It was held by the Andhra Pradesh High Court character of the offender is not only but one of the circumstances that can be taken into consideration.
25.	***Masarullah v. State of Tamil Nadu, (1982) 3 SCC 485***, Wherein observations were made that "in case of an offender under the age of twenty one years on the date of commission of the offence, the Court is expected ordinarily to give benefit of the provisions of the Act and there is an embargo on the power of the Court to award sentence unless the Court considers otherwise, 'having regard to the circumstances of the case including nature of the offence and the character of the offender". The Court stated, "the underlying purpose of the provision being reformative and Section 6 being a special provision, it was enacted to prevent the confinement of young persons under 21 years of age in jail, to protect them from the pernicious influence of hardened criminals.
26.	***Ved Prakash v. State of Haryana, (AIR 1981 SC 643*****),** The Supreme Court while releasing the offender observed that "the social background, and the personal factors of the Crime doer are very relevant although in practice criminal courts have hardly paid attention to the social milieu of the personal circumstances of the offender**.**
27.	***Satto v. State of U.P., (1979) 2 SCC 628,*** The Court directed the appellants to be released on probation of good conduct and committed to the care of their respective parents and if no surviving parent then their guardian executing a bond each, without sureties. … It was held that many systematic experiments, acknowledged in prison reports and judgments of trial courts have proved the therapeutic value of transcendental meditation vis-à-vis juvenile delinquents. Indeed, a conscientious Judge may consider it of better service to society: "If the criminal's past history gives good reason to believe that he is not of the naturally criminal type, that he is capable of real reform and of becoming a useful citizen, there is no doubt that probation, viewed from the selfish standpoint of protection to society alone, is the most efficient method that we have. And yet it is the least understood, the least developed, the least appreciated of all our efforts to rid society of the criminal. The basic idea underlying a sentence to probation is very simple. Sentencing is in large part

	concerned with avoiding future crimes by helping the defendant learn to live productively in the community which he has offended against. Probation proceeds on the theory that the best way to pursue this goal is to orient the criminal sanction toward the community setting in those cases where it is compatible with the other objectives of sentencing. Other things being equal, the odds are that a given defendant will learn how to live successfully in the general community if he is dealt with in that community rather than shipped off to the artificial and a typical environment of an institution of confinement. Banishment from society, in a word, is not the way to integrate someone into society. Yet imprisonment involves just such banishment — albeit for a temporary sojourn in most cases. This is of course not to say that probation should be used in all cases, or that it will always produce better results. There are many goals of sentencing, some of which in a given case may require the imposition of a sentence to imprisonment even in the face of a conclusion that probation is more likely to assure the public that the particular defendant will not offend again. And there are defendants as to whom forced removal from the environment which may in some part have contributed to their offence may be the best beginning to a constructive and useful life.
28.	***Hiralal Mallick v. State of Bihar, (1977) 4 SCC 44,*** But is it enough to pass a law and say that probation is a good thing. Not only should the serious student and Probation Officers be convinced of its advantages but the Judiciary and the Bar must also become its votaries. Unfortunately at present, very little serious attention is paid to this aspect by the Judiciary and the Bar. As a matter of fact I was shocked to see that in a number of cases, which came to the Supreme Court recently, even the existence of the local Probation of Offenders Act was not known, or easily ascertainable. No reference to the relevant Probation Act was made in the Court below but the point was for the first time taken in the grounds for special leave to appeal to the Supreme Court.
29.	***Musakhen & others v. State of Maharashtra, (AIR 1976 SC 2566)*** The court observed that the PO Act is primarily meant to reform Juvenile Offenders so as to prevent them from becoming hardened criminals.
30.	***Divisional Officer v T.R.Chellappan [1976 3 SCC 191],*** The order of release on probation is merely in substitution of the sentence to be imposed by the Court and that the factum of guilt on the criminal charge is not swept away merely by passing the order releasing the offender on probation
31.	***Jagdev Singh v. State of Punjab, (1974) 3 SCC 412,*** Both Sections 4 and 6 of the Act clearly provide that the benefit of these sections is not available to persons found guilty of an offence punishable with imprisonment for life. This Act is intended to carry out the object of keeping away from the unhealthy atmosphere of jail life where normally one has to mix with hardened criminals, those found guilty of the commission of comparatively less serious offences by providing for dealing with them more leniently with a view to their reformation, under Sections 3, 4 or 6 of the Act as the case may be. An offence punishable under Section 326, IPC or under Sections 326/34, IPC is indisputably punishable with imprisonment for life. The benefit of the Act on the plain language of Sections 4 and 6 is thus not available to the present appellants.
32.	***Ishar Das v. State of Punjab, (1973) 2 SCC 65***, It is manifest from plain reading of sub-section (1) of Section 4 of the Act that it makes no distinction between persons of the age of more than 21 years and those of the age of less than 21 years. On the contrary, the said sub-section is applicable to persons of all ages subject to certain conditions which have been specified therein. Once those conditions are fulfilled and the other formalities which are mentioned in Section 4 are complied with,

	power is given to the court to release the accused on probation of good conduct. Further, the court reiterated that non-obstante clause in Section 4 of the Probation of Offenders Act, 1958 reflected the legislative intent that provisions of the Act have effect notwithstanding any other law in force at that time. It was further noticed that the fact that Section 18 of the 1958 Act did not include any other such offences where a mandatory minimum sentence has been prescribed suggests that the Act may be invoked in such other offences.
33.	***Jugal Kishore Prasad v. State of Bihar, (1972) 2 SCC 633*** The court observed that the object of the Probation of Offenders Act, "is in accordance with the present trend in the field of penology, according to which efforts should be made to bring about correction and reformation of the individual offenders and not to resort to retributive justice. Modern criminal jurisprudence recognizes that no one is a born criminal and that a good many crimes are the product of socio-economic milieu.
34.	***Bisi Kisan Suna v. State of Orissa (AIR 1967 Orissa 4)*** The High Court formulated certain principles to exercise the discretionary power under Sec. 3 of the Act. The court observed that. "The section is generally made applicable where a youthful first offender succumbs to sudden temptation or uncontrollable impulses or does a thoughtless act or acts under the influence of others. The Section is not to be applied to cases where the offence was an act of daring and reprehensive nature, or the commission of the offence implied previous preparation or deliberate effort on the part of the accused, or where the conduct shows a design or a general character of craft and deceit.
35.	***Ratanlal v. State of Punjab, AIR 1965 SC 444***, The court observed that the Probation of Offenders Act, "is a milestone in the progress of the modern liberal trend of reform in the field of penology. It is the result of the recognition of the doctrine that the object of Criminal Law is more to reform the individual offender that to punish him.

Additional References:

1. ***State of Maharashtra* v. *Prabhakar Pandurang Sanzgiri***, ***AIR 1966 SC 424*** [Aid of Article 21 was made available perhaps for the first time to a prisoner while dealing with the question of his right of reading and writing books while in jail.
2. ***Suresh Chandra v. State of Gujarat [(1976) 1 SCC 654*** and ***Krishan Lal* v. *State of Delhi [(1976) 1 SCC 655*** [The Court stated about penological innovation in the shape of parole to check recidivism because of which liberal use of the same was recommended.
3. ***D. Bhuvan Mohan Patnaik* v. *State of A.P. (1975) 3 SCC 185*** [A challenge was made to the segregation of prisoners in and a three-Judge Bench stated that resort to oppressive measures to curb political beliefs (the prisoner was a Naxalite because of which he was put in a "quarantine" and subjected to inhuman treatment) could not be permitted. The Court, however, opined that a prisoner could not complain of installation of high-volt live wire mechanism on the jail walls to prevent escape from prisons, as no prisoner has a fundamental right to escape from lawful custody.]
4. ***Charles Sobraj (1978) 4 SCC 104***, it was stated that this Court would intervene even in prison administration when constitutional rights or statutory prescriptions are transgressed to the injury of a prisoner. In that case the complaint was against incarceratory torture.
5. ***Sunil Batra (I) (1978) 4 SCC 494*** [Dealt with the question whether prisoners are entitled to all constitutional rights, apart from fundamental rights. In that case this Court was called upon to decide as to when solitary confinement could be imposed on a prisoner.

6. ***Kishore Singh Ravinder Dev* v. *State of Rajasthan (1981) 1 SCC 503*** [The Court dealt with the parameters of solitary confinement.]
7. ***Prem Shankar Shukla* v. *Delhi Admn*. *(1980) 3 SCC 526*** and ***Kadra Pehadiya* v. *State of Bihar (1981) 3 SCC 671*** prohibited putting of under trial prisoners in leg-irons.
8. ***Sunil Batra (II) (1980) 3 SCC 488*** the Court was called upon to deal with prison vices and the judgment protected the prisoners from these vices with the shield of Article 21. Krishna Iyer, J. stated that "prisons are built with the stones of law".
9. ***Francis Coralie Mullin* v. *Administrator, Union Territory of Delhi (1981) 1 SCC 608*** [A challenge was made to a prison rule which permitted only one interview in a month with the members of the family or legal advisor in and the rule was held violative, inter alia, of Article 21.
10. ***Sheela Barse, (1993) 4 SCC 204*** [rendered in August 1993: and what is more, a disturbing nexus between the judiciary, the police and the administration came to light. This was said to have led to a most shocking state of affairs negating the very basis of the existence of human life.

SESSION 3 **COMPOUNDING OF OFFENCES**		
1.	P.R. Thakur, ***Compounding A Non-Compoundable Offence : Judicial Pragmatism : Neither Activism Nor Absolutism***, 39 Journal of Indian Law Institute 437-454 (April-December, 1997)	**562**
2.	Chirayu Jain, ***Compoundability of Offences: Tracing the Shift in the Priorities of Criminal Justice***, 7 Journal of Indian Law and Society 20-37 (2016).	**581**
3.	Ashutosh Kumar Misra, ***Withdrawal From Prosecution (Section 321 Of The Cr.P.C.)***	**600**
CASE LAW *(Judgments mentioned below includes citation and short note for reference and discussion purpose during the course of the programme. Please refer the full judgment for conclusive opinion)*		
1.	***In Re: Policy Strategy for Grant of Bail, 2022 SCC OnLine SC 1487*** Guidelines issued with respect to disposal of criminal cases by resorting to the triple method of plea bargaining, compounding of offences and under the Probation of Offenders Act, 1958.	
2.	***Guhan v. State Represented by Inspector of Police, (2022) 10 SCC 542*** The Supreme Court while invoking powers under Article 142 compounded a case involving the offence of attempt to murder under Section 307 of the Indian Penal Code taking note of the fact that the accused and the victim's sister got married subsequently.	
3.	***Maheshsinh Babusinh Zala v. State of Gujarat, R/Criminal Misc. Application No. 1046 of 2022 (Judgment Dated 31.01.2022 Gujarat High Court)*** When parties have settled the dispute amicably, the compounding of the offence is permitted with regard to an offence under Section 138 of the Negotiable Instruments Act, 1881. The Court took note of Section 147 of the Act which provides that notwithstanding anything contained in CrPC, every offence punishable under this Act shall be compoundable.	
4.	***Shri Kantu Ram v. Shri Beer Singh, Cr. Revision No. 334 of 2022 (Judgment Dated 22.08.2022 Himachal Pradesh High Court)*** A Court, while exercising powers under Section 147 of the Negotiable Instruments Act, can proceed to compound the offences even after recording of conviction by the courts below.	
5.	***Janakbhai @ Alpeshbhai Mafatbhai Rabari v. State Of Gujarat, R/Criminal Appeal No. 1690 of 2017 (Judgment dated 17.03.2022 Gujarat High Court)*** The Gujarat High Court permitted compounding of offence under Section 323 of IPC, notwithstanding that the accused was also originally charged under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. It was noted that the Court below had acquitted the Petitioners-accused for alleged commission of offences under Sections 504, 506(2), 427 read with 114 of the IPC and Sections 3(1)(x) of the SC/ST Act and no appeal against such acquittal was preferred by the complainant/ State.	
6.	***State of Kerala v. K. Ajith, 2021 SCC OnLine SC 510*** The Supreme Court observed that while deciding a plea to withdraw prosecution, the court must be satisfied that the grant of consent sub-serves the administration of justice; and that the permission has not been sought with an ulterior purpose. The court can also scrutinize the nature and gravity of the offence and its impact upon public	

	life especially where matters involving public funds and the discharge of a public trust are implicated, the bench added. The following principles were formulated: 1. Section 321 entrusts the decision to withdraw from a prosecution to the public prosecutor but the consent of the court is required for a withdrawal of the prosecution; 2. The public prosecutor may withdraw from a prosecution not merely on the ground of paucity of evidence but also to further the broad ends of public justice; 3. The public prosecutor must formulate an independent opinion before seeking the consent of the court to withdraw from the prosecution; 4. While the mere fact that the initiative has come from the government will not vitiate an application for withdrawal, the court must make an effort to elicit the reasons for withdrawal so as to ensure that the public prosecutor was satisfied that the withdrawal of the prosecution is necessary for good and relevant reasons; 5. In deciding whether to grant its consent to a withdrawal, the court exercises a judicial function but it has been described to be supervisory in nature. Before deciding whether to grant its consent the court must be satisfied that: (a) The function of the public prosecutor has not been improperly exercised or that it is not an attempt to interfere with the normal course of justice for illegitimate reasons or purposes; (b) The application has been made in good faith, in the interest of public policy and justice, and not to thwart or stifle the process of law; (c) The application does not suffer from such improprieties or illegalities as would cause manifest injustice if consent were to be given; (d) The grant of consent sub-serves the administration of justice; and (e) The permission has not been sought with an ulterior purpose unconnected with the vindication of the law which the public prosecutor is duty bound to maintain; 6. While determining whether the withdrawal of the prosecution subserves the administration of justice, the court would be justified in scrutinizing the nature and gravity of the offence and its impact upon public life especially where matters involving public funds and the discharge of a public trust are implicated; and *7.* In a situation where both the trial judge and the revisional court have concurred in granting or refusing consent, this Court while exercising its jurisdiction under Article 136 of the Constitution would exercise caution before disturbing concurrent findings. The Court may in exercise of the well-settled principles attached to the exercise of this jurisdiction, interfere in a case where there has been a failure of the trial judge or of the High Court to apply the correct principles in deciding whether to grant or withhold consent.
7.	***Ashwini Kumar Upadhyay v. Union of India, 2021 SCC OnLine SC 629*** The Supreme Court put down specific standards for withdrawing from prosecution for current or former MLAs, MPs, and Ministers. According to the guidelines, no prosecution against sitting or former MPs and MLAs will be withdrawn without the permission of the High Court of the concerned state.
8.	***Prakash Gupta v. Securities and Exchange Board of India, 2021 SCC OnLine SC 485*** In respect of offences which lie outside the Indian Penal Code, compounding may be permitted only if the statute which creates the offence contains an express provision for compounding before such an offence can be made compoundable. This is because Section 320 CrPC provides for the compounding of offences only under the IPC. The first of these principles is crucial so as to allow for amicable resolution of disputes between parties without the adversarial role of Courts, and also to ease the burden of cases coming before the Courts. However, the second principle is equally important because even an offence committed against a private party may affect the fabric of society at large. Non-prosecution of such an offence may affect the limits of conduct which is acceptable in the society. The Courts play an important role in setting these limits through their adjudication and by prescribing punishment in proportion to how far away from these limits was the offence which was committed. As such, in deciding on whether to compound an offence, a Court does not just have to understand its effect on the parties

	before it but also consider the effect it will have on the public. Hence, societal interest in the prosecution of crime which has a wider social dimension must be borne in mind.
9.	***Mahalovya Gauba v. The State of Punjab and Another, CRM-M-42269-2020 (Judgment Dated 08.02.2021 Punjab & Haryana High Court)*** The Court held that criminal proceedings containing compoundable offences are classified into two parts: (i) Settlement of criminal crimes without the court's consent under Section 320(1) of the CrPC, and (ii) Settlement of criminal proceedings with the court's approval under Section 320(2) of the CrPC: The Lok Adalat will have the authority to hear compoundable criminal proceedings of both subgroups, compoundable without the court's consent under Section 320(1) of the CrPC and compoundable with the court's consent under Section 320(2) of the CrPC. Compounding before filing of Chargesheet under Section 173(2) of the CR.PC at the stage of investigation.
10	***Khokhar Iliyas Bismilla Khan v. State of Gujarat, R/Criminal Appeal No. 18712 of 2020 (Judgment Dated 09.03.2021 Gujarat High Court)*** The object of Section 138 of the NI Act, which is mainly to inculcate faith in the efficacy of banking operations and credibility of transacting business through cheque as also taking into account the provisions of Section 147 which states that every offence punishable under this Act shall be compoundable.
11	***Jairaj v. State of Maharashtra, Criminal Appeal No.(s).1500/2015 (Supreme Court of India, Order dated 17.07.2020)*** SC quashed matrimonial cruelty charges against husband based on compromise. The Court, while setting aside the impugned judgment dismissing the petition filed by the appellants seeking quashing of the FIR for in view of the High Court the offences under Sections 498A and 406 IPC are non compoundable and the inherent powers under Section 482 of the Code cannot be invoked to bypass the mandatory provision of Section 320 of the Code, said that non-exercise of inherent exercise of power to quash the proceedings to meet the ends of justice would prevent women from settling the disputes.
12	***Bhagyan Das v. The State of Uttarakhand & Another, (2019) 4 SCC 354*** A court has discretion to reject a plea to compound an offence having social impact, even if the offence is compoundable under Section 320 of the Code of Criminal Procedure. Merely because an offence is compoundable under Section 320 CrPC, still discretion can be exercised by the court having regard to nature of offence, as such it is rightly held in the impugned judgment that as the offence for which appellant was convicted and sentenced, it will have its own effect on the society at large. In view of the reasons recorded in the impugned order rejecting the application for compounding, it cannot be said that the High Court has committed any error in not accepting the application filed for compounding the offence.
13	***State of Madhya Pradesh v. Dhruv Gurjar and Another, (2019) 5 SCC 570*** Relevance of compromise when offence in question is more in nature of crime against society than a personal wrong.
14	***Shankar Yadav v. State of Chhattisgarh, (2018) 13 SCC 452*** Where ingredients of compounding of offences are made out the appellant accused is entitled to the benefit of compounding.
15	***State of Rajasthan v. Shambhu Kewat, (2014) 4 SCC 149*** Compounding of non-compoundable offence on the basis of compromise based on monetary compensation paid to the victim(s) impermissible owing to a larger objective of the criminal justice system – Reduction of substantive sentence due to compromise only if warranted.

16	***Bairam Muralidhar v. State of Andhra Pradesh, (2014) 10 SCC 380*** The application for withdrawal of prosecution must indicate perusal of the materials by stating what are the materials he has perused, may be in brief, and whether such withdrawal of the prosecution would serve public interest and how he has formed his independent opinion. As we perceive, the learned Public Prosecutor has been totally guided by the order of the Government and really not applied his mind to the facts of the case.
17	***Ranjana Agnihotri v. Union of India, 2013 SCC OnLine All 12040*** A full seat of Allahabad High Court considered four inquiries identifying with the translation of Section 321 of Cr. P. C., alluded to it. Incompatibility of directions given by the State Government, the Public Prosecutors, accountable for those cases, moved applications for withdrawal from the prosecution of the charged in the said cases. The full seat responded to the four inquiries encircled by the Referral Court (Division Bench) as under: 1. The Government can give a request or guidance for withdrawal from prosecution without there being demand from the Public Prosecutor accountable for the case, subject to the rider that the Public Prosecutor will apply his/her autonomous personality and record fulfilment before moving an application for withdrawal from prosecution. 2. The prosecution can't be pulled back without allotting reason, might be definitely. In the event that an application is moved for withdrawal from prosecution for a situation identifying with fear-based oppression and pursuing of war against the nation, exceptional and explicit explanation must be allocated keeping in see the dialogue, made in the collection of the judgment. 3. Prosecution under Central Act was concerning the offences, the official intensity of the Union expands, the prosecution can't be pulled back without authorization of the Central Government. For offences under Unlawful Activities (Prevention) Act, 1967, Explosive Substances Act, 1908 and Arms Act, 1959 and so forth and the offences falling in Chapter VI of Indian Penal Code or the same offences the official intensity of the Union of India broadens, consequently authorization from the Central Government as to withdrawal of indictment under Section 321 Cr. P. C. will be vital. ***4.*** State Government has got capacity to give guidance or pass request considerably after authorization for prosecution has been given in a pending criminal case, subject to the condition that the Prosecuting Officer needs to take free choice with due fulfilment as per law all alone, before moving the application for withdrawal from prosecution in the preliminary court.
18	***Damodar S. Prabhu v. Sayed Babalal H., (2010) 5 SCC 663*** Compounding of offences under the Negotiable Instruments Act, 1881 is controlled by Section 147 and the scheme contemplated under Section 320 CrPC will not be applicable in strict sense. Guidelines/Discretion issued: (i) to encourage litigants in cheque dishonor cases to opt for compounding during early stages of litigation to ease choking of criminal justice system (ii) for graded scheme of imposing costs on parties who unduly delay compounding of offence and (iii) for controlling of filing of complaints in multiple jurisdictions relatable to same transaction.
19	***Vinjay Devanna Nayak v. Ryot Sewa Sahkari Bank Ltd., (2008) 2 SCC 305*** The compounding of an offence signifies that the person against whom an offence has been committed has received some gratification to an act as an inducement for his abstaining from proceeding further with the case.
20	***Nikhil Merchant v. CBI, (2008) 9 SCC 677*** The charges against the accused consisted of both compoundable and non- compoundable offences. However, before the charge sheet was filed, the parties had arrived at a settlement and wanted to quash the criminal proceedings against the defendant. High court did not quash the proceedings but when the matter went to the

	Supreme court, the criminal proceedings were quashed. The Supreme court laid down that just because of the technicality provided under section 320 with regards to when a party can file for quashing of proceedings and when a party can arrive at a compromise, the interests of justice cannot be ignored. When the parties have already arrived at an arrangement, the veracity of which has been duly checked by the court, there is no point in going on with the criminal proceedings.
21	***S.K. Shukla v. State of U.P., (2006) 1 SCC 314*** The public prosecutor "cannot work as a post box or act on the orders of the state government." As officers of the court, the Public Prosecutors should operate objectively, according to the Court.
22	***Abdul Karim and others v. State of Karnataka, (2000) 8 SCC 710*** That an application under Section 321 Cr.P.C. could not be allowed only on the ground that the State Government had taken a decision for withdrawing the prosecution and such an order could only be passed after examining the facts and circumstances of the case.....What the Court has to see is whether the application is made in good faith, in the interest of public policy and justice and not to thwart or stifle the process of law. The Court, after considering the facts of the case, has to see whether the application suffers from such improprieties or illegalities as would cause manifest injustice, if consent was given.
23	***State of U.P. v. III Additional District & Sessions Judge, 1997 Cri LJ 3021 (All)*** The Public prosecutor in charge sought to withdraw giving reason that the accused was forced into such crimes due to the various atrocities committed upon her by the higher caste people. The court reasoned that there is no service to the public interest in withdrawing from prosecution in particular case and rather such withdrawal might lead to caste based wars wherein every person would think himself or herself to take revenge of any atrocities committed by another without taking recourse to lawful authorities creating chaos and utter savageness.
24	***Surendra Nath Mohanty v. The State of Orissa, (1999) 5 SCC 238*** A full mechanism is available under Section 320 of the CrPC, 1973 for the compounding of the charges mentioned under the IPC. Section 320(1) states that the crimes listed in the table given in Section 320 can be settled by the people listed in the third column of the list. Furthermore, Section 320(2) states that the crimes specified in the list may be settled by the complainant with the court's consent. In contrast, Section 320(9) expressly states that no action shall be settled unless as permitted by Section 320 of the CrPC. According to the aforementioned statutory mandate, only the acts listed in tables 1 and 2 as specified above can be compounded, whereas any other offences punishable under the IPC cannot be settled.
25	***State of Punjab v. Union of India, (1986) 4 SCC 335*** The Supreme Court on appeal, held that the public prosecutor can on opinion of the State government seek withdrawal from prosecution in public interest. In the particular case, the court held that firstly, the court only needs to act as supervisor i.e., check that the office of public prosecutor has not been used for purposes other than to serve the interests of public justice. Secondly, again opening of trial may lead to public unrest amongst the employees.
26	***Sheonandan Paswan v. State of Bihar, (1983) 1 SCC 438*** Section 321 of the code enables the Public Prosecutor to withdraw from the prosecution with the consent of the Court. Before on application made under section 321 Cr.P.C. the Public Prosecutor has to apply his mind to the facts of the case independently without being subject to any outside influence and secondly that the Court, before which the case is pending cannot give its consent to withdraw without itself applying mind to the fact of the case.The Supreme Court held that the court hearing the application for withdrawal from prosecution goes about

	as a chief and in this manner need not go into the proof of the case concerned. The court ought not to be worried about what the outcome would be if all the proof is considered. All the court ought to be worried about is that in considering the material set before it, regardless of whether the public prosecutor applied his free mind and whether the thinking embraced by him experiences inalienable perversity which may prompt foul play.
27	***Subhash Chander v. Chandigarh Administration, (1980) 2 SCC 155*** The Public Prosecutor who alone is entitled to pray for withdrawal, is to act not as a part of executive but as a judicial limb and in praying for withdrawal he is to exercise his independent discretion even if it incurs the displeasure of his master affecting continuance of his office.
28	***Rajender Kumar Jain v. State through Special Police Establishment, (1980) 3 SCC 435*** The Supreme Court has held that it shall be the duty of the Public Prosecutor to inform the grounds for withdrawal to the Court and it shall be the duty of the Court to appraise itself of the reasons which prompt the Public Prosecutor to withdraw from the prosecution. The Court has a responsibility and a stake in the administration of criminal justice and so has the Public Prosecutor, its 'Minister of Justice'. Both have a duty to protect the administration of Criminal justice against possible abuse or misuse by the Executive by resort to the provision of Section 321, Cr.P.C. The independence of the judiciary requires that once the case has travelled to the Court, the Court and its officers alone must have control over the case and decide what is to be done in each case.
29	***Bansi Lal v. Chandan Lal, (1976) 1 SCC 421*** The Supreme Court held that the preliminary court can't precisely offer authorization to pull back from prosecution to the public prosecutor. The court needs to see that the grounds illustrated for withdrawal are entirely the interests of equity and public appeal. The court likewise needs to see whether the workplace of public prosecutor is abused by the official to satisfy the thin appeal spurred by legislative issues. Second, the court while offering consent to withdrawal from indictment goes about like a boss and subsequently, by and large, the court ought not to re-value the grounds on which the open examiner chose to apply for withdrawal. The court, be that as it may, is compelled by a solemn obligation to look at whether the open examiner applied his free personality in choosing the issue. Consequently, it is the courts' significant obligation to investigate each application for withdrawal from arraignment concerning the utilization of free personality by the open prosecutor accountable for the specific case.
30	***Ramesh Chandra J, Thakkar v. A. P. Jhaveri & Anr, AIR 1973 SC 84*** If an acquittal is based on the compounding of an offence and the compounding is invalid under the law, the acquittal would be liable to be set aside by the High Court in the exercise of its revisional powers. If any non-compoundable offence has been compounded against the law and the acquittal of the accused made is based on the same compromise, the High Court has the power to set aside such an order.
31	***M.N. Sankarayarayanan Nair v. P. V. Balakrishnan, (1972) 1 SCC 318*** The Supreme Court attempted to diagram the rule with respect to which the public prosecutor can practice their circumspection. The court saw that the carefulness is guided by the implicit necessity that the withdrawal ought to be in light of a legitimate concern for the organization of equity. Such may incorporate that prosecution can't gather enough proof to continue charges on denounced or accused, or that withdrawal is essential for controlling lawful circumstances, or for the upkeep of open harmony and serenity and so on.
32	***Biswabahan Das v. Gopen Chandra Hazarika & Ors., AIR 1967 SC 895*** Where the offence is of such a nature that it affects the victim in their individual capacity a sufficient redressal for such an offence may be compounding.

33	***State of Bihar v. Ram Naresh Pandey, 1957 SCR 279*** The Supreme Court clarified the extent of discretion of the public prosecutor vis-à-vis the State government in matters relating to withdrawal of prosecution. Before granting consent to withdraw a case, the Court must be satisfied that the Public Prosecutor's executive function is being properly exercised and that it is not an attempt to interfere with the normal course of justice for illegitimate reasons or purposes.
	HIGH COURT'S POWER UNDER SECTION 482 CRPC
34	***B.S. Joshi v. State of Haryana, (2003) 4 SCC 675*** If for the purpose of securing the ends of justice, quashing of FIR becomes necessary, Section 320, Cr.P.C. does not affect or limit the powers under Section 482, Cr.P.C.
35	***Shiji v. Radhika and Another, (2011) 10 SCC 705*** Effect of non compoundability of offence under Section 320, Cr.P.C. on the power under Section 482, Cr.P.C. – Such power can be exercised as per settled principles, in cases where there is no chance of recording conviction and the trial is destined to be an exercise in futility
36	***Gian Singh v. State of Punjab and Another, (2012) 10 SCC 303*** Certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to victim and the offender and victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or F.I.R if it is satisfied that on the face of such settlement, there is hardly any likelihood of offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard and fast category can be prescribed.
37	***K. Srinivas Rao v. D.A. Deepa, (2013) 5 SCC 226*** Though offence punishable under Section 498-A IPC is not compoundable, in appropriate cases if parties are willing and if it appears to the criminal court that there exists elements of settlement, it should direct the parties to explore the possibility of settlement. This is obviously not to dilute the rigour, efficacy and purport of Section 498-A IPC but to locate cases where the matrimonial dispute can be nipped in bud in an equitable manner. For the settlement to come through, the complaint will have to be quashed. In that event, they can approach the High Court and get the complaint quashed. If there is settlement, the parties will be saved from the trials and tribulations of a criminal case and that will reduce the burden on the courts which will be in the larger public interest. Obviously, the High Court will quash the complaint only if after considering all circumstances it finds the settlement to be equitable and genuine. Such a course, in our opinion, will be beneficial to those who genuinely want to accord a quietus to their matrimonial disputes.
38	***Jitendra Raghuvanshi and Others v. Babita Raghuvanshi and Another, (2013) 4 SCC 58*** In cases of offences relating to matrimonial disputes, if the Court is satisfied that the parties have genuinely settled the disputes amicably, then for the purpose of securing ends of justice, criminal proceedings inter-se parties can be quashed by exercising the powers under Article 142 of the Constitution of India or even under Section 482 of Code of Criminal Procedure, 1973.
39	***Narinder Singh v. State of Punjab, (2014) 6 SCC 466***

	Detailed guidelines laid down for High Courts to form a view under what circumstances it should accept the settlement between parties and quash the proceedings and when it should refrain from doing so	
40	***Parbatbhai Aahir Alias Parbatbhai Bhimsinhbhai Karmur and Others v. State of Gujarat and Another, (2017) 9 SCC 641*** In a case involving extortion, forgery and conspiracy where all the accused acted as a team, it is not in the interest of the society in prosecuting serious crimes to quash the FIR on the ground that settlement has been arrived at with the complainant	
41	***Parameshwar J. & Others v. State of Karnataka &Others, Crl. P. No.5290/2014 (Judgment Dated 02.07.2018 Karnataka High Court)*** Compromise for quashing 498-A accepted as it is a matrimonial conflict.	
42	***State of Madhya Pradesh v. Laxmi Narayan and Others, (2019) 5 SCC 688*** While exercising the powers under Section 482, Cr.P.C. the court should scan the entire facts to find out the thrust of the allegations and the crux of the settlement – Effect of compromise in serious cases on society and law on quashment of non-compoundable offences summarized and harmonized	
43	***Ramgopal and Another v. State of Madhya Pradesh, 2021 SCC OnLine SC 834*** As opposed to Section 320 Cr.P.C. where the Court is squarely guided by the compromise between the parties in respect of offences 'compoundable' within the statutory framework, the extra-ordinary power enjoined upon a High Court under Section 482 Cr.P.C. or vested in this Court under Article 142 of the Constitution, can be invoked beyond the metes and bounds of Section 320 Cr.P.C.	
44	***Daxaben v. State of Gujarat and Others, 2022 SCC OnLine SC 936*** An FIR under Section 306 of the IPC cannot even be quashed solely on the basis of any financial settlement with the informant, surviving spouse, parents, children, guardians, care-givers or anyone else.	
45	***Rajinder Kumar v. Pushpa Devi, Criminal Revision No.293 of 2021 (Judgment Dated 15.12.2022 Himachal Pradesh High Court)*** The provisions of Section 147 of Negotiable Instruments Act coupled with inherent power of the High Court under Section 482 Cr.P.C sufficiently empower the High Court to compound the case even in the absence of consent of complainant where complainant is duly compensated.	
46	***Rangappa Javoor v. State Of Karnataka, Criminal Appeal No. Of 2023 (Arising out of Special Leave Petition (Crl). No. Of 2023) (@ Diary No. 33313/2019) (Judgment Dated, 30.01.2023 Supreme Court Of India)*** The Supreme Court observed that criminal proceedings inter-se parties in cases of offences relating to matrimonial disputes can be quashed if the Court is satisfied that the parties have genuinely settled the disputes amicably. In this case, the husband was charged under Sections 498A, 427, 504 and 506 of the Indian Penal Code pursuant to an FIR lodged by the wife. The couple entered into a settlement agreement and a decree of divorce by mutual consent was granted to them. The parties also agreed that FIR and the proceedings arising therefrom should be quashed. However, the Karnataka High Court rejected the prayer to quash the criminal proceedings against the husband.	
SESSION 4 **PLEA BARGAINING: CHALLENGES IN IMPLEMENTATION**		
1.	Shubham Kumar Thakuriya & Deeba Faryal, ***A Consecration in CrPC: Plea Bargaining***, 5(1) International Journal of Law Management and Humanities 2408-2416 (2022)	**607**

2.	Justice Sunil Ambwani, ***Plea Bargaining in India*** (2021)	**618**
3.	Pradeep Kumar Singh, ***Plea Bargaining and Criminal Justice in India***, 7(1) Athens Journal of Law 33-52 (2021)	**624**
4.	Anupriya Yadav, ***Concept of Plea-Bargaining***, 3(5) International Journal of Law Management and Humanities 618-627 (2020).	**645**
5.	Shaista Amin, ***Plea Bargaining-An Indian Approach*** 4(1) GNLU Journal of Law Development and Politics 67-89 (2014)	**656**
6.	K.V.K. Santhy, ***Plea Bargaining in US and Indian Criminal Law Confessions For Concessions*** 7(1) NALSAR Law Review 84-102 (2013)	**681**
7.	Mary E. Vogel, ***The Social Origins of Plea Bargaining: An Approach to the Empirical Study of Discretionary Leniency?*** 35 Journal of Law and Society 201-232 (2008)	**700**

Additional References:

1. *Milton Heumann, Plea Bargaining: The Experiences of Prosecutors, Judges, and Defense Attorneys (University of Chicago Press; 2nd Edition 15 August, 1981)*
2. *142nd Report of the Law Commission of India (1991)*

CASE LAW

(Judgments mentioned below includes citation and short note for reference and discussion purpose during the course of the programme. Please refer the full judgment for conclusive opinion)

1.	***Vipul v. State of U.P., 2022 SCC OnLine SC 1686*** The concept of plea bargaining has a laudable objective. It is meant to facilitate all the stakeholders, assigning a specified role for the victim to move towards a resolution. It is a voluntary act leading to a satisfactory disposition of a criminal case. The consensus part is restricted to the sentencing part alone as the conviction stays on the acceptance of the guilt by the accused. Additionally, it reduces the burden of the court, the State, the victim, and the accused facing agonizing litigation, while serving the cause of justice. Though plea bargaining has been introduced in the provisions of CrPC somehow it has not worked because the social stigma of conviction may be preventing the accused from accepting the bail and accepting a plea-bargaining position. In fact, we do not even know in how many cases is the availability of the plea bargain remedy put to the accused and would like to say that the Trial Courts must use this provision usefully. We do believe that it would only be appropriate to remind the stakeholders of the laudable objective in plea bargaining, compounding of offenses, and release on probation of good conduct or after admonition.
2.	***In Re: Policy Strategy for Grant of Bail, 2022 SCC OnLine SC 1487*** Guidelines issued with respect to disposal of criminal cases by resorting to the triple method of plea bargaining, compounding of offences and under the Probation of Offenders Act, 1958.
3.	***Air Customs v. Begaim Akynova, 2022 SCC OnLine Del 8*** Had the legislature intended to exclude the applicability of Chapter XXIA Cr.P.C. to those enactments where there are provisions for compounding the offence, then it would have explicitly mentioned the same in Chapter XXIA Cr.P.C. Chapter XXIA Cr.P.C. was introduced to include all statutes, save those that were specifically excluded under Section 265-A (2). It cannot be said that the legislature was unaware of the Customs Act, 1962, while devising the chapter on plea bargaining. Therefore, the presence of Section 137(3) of the Customs Act, 1862, will not take away the applicability of Chapter XXIA Cr.P.C.

4.	***Mallikarjun Kodagali v. State of Karnataka, (2019) 2 SCC 752*** Parliament also has been proactive in recognising the rights of victims of an offence. One such recognition is through the provisions of Chapter XXI-A CrPC which deals with plea bargaining. Parliament has recognised the rights of a victim to participate in a mutually satisfactory disposition of the case. This is a great leap forward in the recognition of the right of a victim to participate in the proceedings of a non-compoundable case. Similarly, Parliament has amended CrPC introducing the right of appeal to the victim of an offence, in certain circumstances. The present appeals deal with this right incorporated in the proviso to Section 372 CrPC.
5.	***Navneet Singh v. State, 2019 SCC OnLine Del 10928*** Facts stated by an accused in application for plea bargaining filed under Section 265B Cr.P.C. cannot be used for affixing guilt on any other co-accused.
6.	***State (Govt. of NCT of Delhi) v. Sonu, 2019 SCC OnLine Del 11259*** The concept of 'plea bargaining' is entirely different from 'pleading guilty' without any conditions attached. Law in India does not permit 'plea bargaining' in serious offences such as an offence punishable under section 307 IPC yet there is no statutory bar to an accused charged under section 307 IPC pleading guilty on his/her own volition. As the respondent-accused herein had voluntarily entered an unconditional plea of guilt, it cannot be termed as 'plea bargaining'.
7.	***Inhuman Conditions in 1382 Prisons, In re, (2016) 3 SCC 700*** In the context of unacceptably high percentage of under trial prisoners in the prison population it was suggested that the provisions of Section 436 CrPC as well as Section 436-A CrPC had to be made use of. It was also suggested that steps be taken to utilise the provisions of plea bargaining, the establishment of Fast Track Courts, holding of Lok Adalats and ensuring adequate means for the production of the accused before the Court directly or through video conferencing.
8.	***Virsa Singh v. Department of Customs, (2015) 17 SCC 386*** The trial court committed serious illegality in sentencing the respondent to only the period already undergone when the minimum sentence required to be awarded was one year. It was held that minimum sentence is required to be imposed even on plea bargaining.
9.	***State v. Sanjiv Bhalla, (2015) 13 SCC 444*** There is a necessity of giving justice to the victims of a crime and by arriving at a fair balance, awarding a just sentence to the convicts by treating them in a manner that tends to assist in their rehabilitation. The amendments brought about in the Criminal Procedure Code in 2006 also include a chapter on plea bargaining, which again is intended to assist and enable the trial Judge to arrive at a mutually satisfactory disposition of a criminal case by actively engaging the victim of a crime. It is the duty of a trial Judge to utilise all these tools given by Parliament for ensuring a fair and just termination of a criminal case.
10	***Girraj Prasad Meena v. State of Rajasthan, (2014) 13 SCC 674*** When accused pleads guilty complainant or victim must be heard before deciding on guilty plea of the accused. As the court did not hear appellant victim while deciding on guilty plea of accused, such proceedings stood vitiated and the matter was remanded for decision afresh to trial court.
11	***Guerrero Lugo Elvia Grissel v. State of Maharashtra, 2012 SCC OnLine Bom 6*** The intent behind Chapter XXI-A of the Code, although, was to help the litigant to end uncertainty, save litigation costs and anxiety costs, as also to reduce back-breaking burden of the Court and to reduce the congestion in jails; but, at the same time, a conscious decision is taken that we have to depart from the scheme of plea-bargaining

	prevailing in other countries and adopt such scheme so that substantive sentence of imprisonment in jail deserves to be imposed on an offender who pleads guilty whilst invoking the scheme for concessional treatment. The status of accused, who pleads not guilty to the charge and claims to be tried is incomparable with the status of the accused, who pleads guilty and invokes remedy of plea-bargaining. Thus, the argument of discrimination is unavailable to the accused, who, at his own volition, elects the remedy of plea-bargaining. The Court has no discretion to award sentence other than one-fourth of the punishment provided for or extendable, as the case may be, for the offence in question in cases covered by clause (d) of section 265- E of the Code.
12	***Jeetu v. State of Chhattisgarh, (2013) 11 SCC 489*** It is not reasonable, fair and just to act on plea of guilty for purpose of enhancing or reducing sentence in appeals or revisions. Sentence commensurate with crime committed is required to be imposed. Mere acceptance or admission of guilt should not be a ground for reduction of sentence.
13	***State of Punjab v. Prem Sagar, (2008) 7 SCC 550*** There are certain offences which touch our social fabric. We must remind ourselves that even while introducing the doctrine of plea bargaining in the Code of Criminal Procedure, certain types of offences had been kept out of the purview thereof. While imposing sentences, the said principles should be borne in mind.
14	***Pardeep Gupta v. State, 2007 SCC OnLine Del 1192*** The Trial Court could not have rejected the application for plea bargaining on the ground that he was involved in Section 120B IPC and therefore the request for plea bargaining is not available to him. Trial court should favourable consider applications for plea bargaining, the only tests being whether the offence involved is punishable with imprisonment of seven or less and the applicant is a first time offender.
15	***R.K. Saksena v. State of Maharashtra, 2006 SCC OnLine Bom 50*** The practice of plea bargaining should be discouraged. It should not be followed by the lower Courts since from the record, it is apparent that plea has been recorded and inducement has been given by the Public Prosecutor. The said Judgment and Order of both the lower Courts which is based on this plea would have to be set aside.
16	***State of Gujarat v. Natwar Harchandji Thakor, (2005) 1 GLR 709*** The Court recognised the importance of plea bargaining. It stretched on the fact that every "plea of guilty" which is done in the statutory procedure of the criminal trial, should not be regarded as "Plea Bargaining". It has to be decided on a case to case basis. Taking into account the increasing problems in the criminal justice system, the Court was of the opinion that the purpose of the law makers is to create laws that help in providing easy, expeditious and cheap justice.
17	***Balram Kumawat v. Union of India, (2003) 7 SCC 628*** In matters involving economic crime, food offences and other cases, plea bargaining should not be applied.
18	***Harbhajan Singh v. State of U.P., (2002) 9 SCC 407*** The practice of plea bargaining deprecated by the court particularly in cases involving serious offences. When the appellant has said that he is not prepared to yield to a conviction on such a plea it is necessary for the appellate court to consider the evidence afresh and reach the conclusion regarding the crucial issues involved.
19	***State of Uttar Pradesh v. Chandrika, (1999) 8 SCC 638*** The concept of "plea bargaining" is not recognised and is against public policy under our criminal justice system. Section 320 CrPC provides for compounding of certain offences with the permission of the court and certain others even without permission of the court. Except the above, the concept of negotiated settlement in criminal

	cases is not permissible. This method of short-circuiting the hearing and deciding the criminal appeals or cases involving serious offences requires no encouragement. Neither the State nor the Public Prosecutor nor even the Judge can bargain that evidence would not be led or appreciated in consideration of getting flea-bite sentence by pleading guilty. Hence, it is settled law that on the basis of plea bargaining the court cannot dispose of the criminal cases. The Court has to decide it on merits. If the accused confesses his guilt, an appropriate sentence is required to be imposed. Further, the approach of the court in appeal or revisions should be to find out whether the accused is guilty or not on the basis of the evidence on record. If he is guilty, an appropriate sentence is required to be imposed or maintained. If the appellant or his counsel submits that he is not challenging the order of conviction, as there is sufficient evidence to connect the accused with the crime, then also the court's conscience must be satisfied before passing the final order that the said concession is based on the evidence on record. In such cases, sentence commensurating with the crime committed by the accused is required to be imposed. Mere acceptance or admission of the guilt should not be a ground for reduction of sentence. Nor can the accused bargain with the court that as he is pleading guilty the sentence be reduced.
20	***Kirpal Singh v. State of Haryana, (1999) 5 SCC 649*** Neither the trial court nor the High Court has the jurisdiction to bypass on the basis of a plea bargain the minimum sentence prescribed by law.
21	***Thippaswamy v. State of Karnataka, (1983) 1 SCC 194*** Enhancement or imposition of sentence in revision or appeal after the accused had plea bargained for a lighter sentence or mere fine in the trial court would not be reasonable, just or fair and thereby offend Article 21. Proper course in such instances is to order retrial giving opportunity to the accused to defend himself.
22	***Kasambhai v. State of Gujarat, AIR 1980 SC 854*** It is to our mind contrary to public policy to allow a conviction to be recorded against an accused by inducing him to confess to a plea of guilty on an allurement being held out to him that if enters a plea of guilty, he will be let off very lightly. Such a procedure would be early unreasonable, unfair and unjust and would be violative of the new activist dimension of Article 21 of Constitution. It would have the effect of polluting the pure fount of justice, because it might induce an innocent accused to plead guilty to suffer a light and inconsequential punishment rather than go through a long and arduous criminal trial which, having regard to our cumbrous and unsatisfactory system of administration of justice, is not only long drawn out and ruinous in term of time and money, but also uncertain and unpredictable in its result and the Judge also might be likely to be deflected from the path of duty to do justice and he might either convict an innocent accused by accepting the plea of guilty or let off a guilty accused with a light sentence, thus, subverting the process of law and frustrating the social objective and purpose of the anti-adulteration statute. This practice would also tend to encourage corruption and collusion and as a direct consequence, contribute to the lowering of the standard of justice. There is no doubt in our mind that the conviction of an accused based on a plea of guilty entered by him as a result of plea bargaining with the prosecution and the Magistrate must be held to be unconstitutional and illegal. The High Court should have therefore, set aside the conviction of the appellant and sent the case back to the learned Magistrate for trial in accordance with law, ignoring the plea of guilty entered by the appellant. The High Court was clearly in error in not doing so.
23	***Ganeshmal Jashraj v. Govt. of Gujarat, (1980) 1 SCC 363*** There can be no doubt that when there is an admission of guilt made by the accused as a result of plea bargaining or otherwise, the evaluation of the evidence by the Court is likely to become a little superficial and perfunctory and the Court may be disposed to refer to the evidence not critically with a view to assessing its credibility but

	mechanically as a matter of formality in support of the admission of guilt. The entire approach of the Court to the assessment of the evidence would be likely to be different when there is an admission of guilt by the accused. Here it is obvious that the approach of the learned Judicial Magistrate was affected by the admission of guilt made by the appellant and in the circumstances, it would not be right to sustain the conviction of the appellant.
24	***Kachhia Patel Shantilal Koderlal v. State of Gujarat and Anr., 1980 CriLJ 553*** The Supreme Court held that, the practice of plea bargaining is unconstitutional, illegal and could encourage corruption and collusion.
25	***Kisan Trimbak Kothula v. State of Maharashtra, (1977) 1 SCC 300*** A few guileless souls in the dock, scared by the sometimes exaggerated legal finality given to public analysts' certificates and the inevitable incarceration awaiting them, may enter into that dubious love affair with the prosecution called "plea bargaining" and get convicted out of their own mouth, with a light sentence to begin with, running the risk of severe enhancement if the High Court's revisional vigilance falls on this "trading out" adventure. We do not explore the deeper import of the quasi-compounding element or something akin to it, except to condemn such shady deals which cast suspicion on the integrity of food inspectors and administration of justice.
26	***Murlidhar Meghraj Loya v. State of Maharashtra, AIR 1976 SC 1929*** The appellants had hastened with their pleas of guilty hopefully, induced by an informal, tripartite understanding of light sentence in lieu of *nolo contendere* stance. It is idle to speculate on the virtue of negotiated settlements of criminal cases as obtains in the United States but in our jurisdiction, especially in the area of dangerous economic crimes and food offences, this practice intrudes on society's interests by opposing society's decision expressed through predetermined legislative fixation of minimum sentences and by subtly subverting the mandate of the law.
27	***Brady v. United States, 397 U.S. 742 (1970)*** A guilty plea is not unconstitutionally compelled when a defendant pleads guilty because they would prefer a certain or probable lesser penalty to the risk of a greater penalty.
28	***Madanlal Ramachander Daga v. State of Maharashtra, AIR 1968 SC 1267*** It is very wrong for a court to enter into a bargain of this character. Offences should be tried and punished according to the guilt of the accused. If the court thinks that leniency can be shown on the facts of the case it may impose a lighter sentence.

SESSION 5

VICTIM COMPENSATION: JUDICIAL APPROACH TOWARDS COMPENSATORY JURISPRUDENCE

6.	S. Latha & R. Thilagaraj, ***Restorative Justice in India,*** 8 Asian Journal of Criminology 309-319 (2013).	**816**

Additional References:

1. *Central Victim Compensation Scheme (2015)*
2. *Report of Committee on Reforms of Criminal Justice System, Government of India, Ministry of Home Affairs (March, 2003)*
3. *154th Report of the Law Commission of India (1996)*
4. *United Nations Declaration of Basic Principles of Justice for Victim of Crime and Abuse of Power (1985)*

CASE LAW

(Judgments mentioned below includes citation and short note for reference and discussion purpose during the course of the programme. Please refer the full judgment for conclusive opinion)

1.	***Union of India v. Union Carbide Corporation, 2023 SCC OnLine SC 264*** The present petition was filed by the Union of India ('UoI') in 2010 as parens patriae of victims on the direction of Union Cabinet to claim enhanced compensation alleging that the quantum of damages payable had vitiated the Court's affirmation under Union Carbide Corporation. v. Union of India, (1989) 3 SCC 38 ('settlement judgment') and Union Carbide Corporation. v. Union of India, (1991) 4 SCC 584 ('review judgment'). It was observed that the Center had claimed for a top up which had no foundation in any known legal principal. Either a settlement was valid, or it was to be set aside in cases where it was vitiated by fraud. No such fraud has been pleaded by the Center and their only contention relates to a number of victims, injuries and costs that were not contemplated at the time when settlement was effective. The method of topping up the settlement amounts under Article 142 of the constitution of India would not be an appropriate course of action or the method to impose greater liability on UCC that it initially agreed to bear. The Court ordered that a sum of Rs 50 crore lying with the Reserve Bank of India be utilized by the Center to satisfy the pending claims, if any, in accordance with the Bhopal Gas leak Disaster Act, 1985 and schemes framed thereunder. With the above observations, Supreme Court Constitution Bench dismissed Centre's plea for enhanced compensation from Union Carbide Corporation.
2.	***Jagjeet Singh v Ashish Mishra, 2022 SCC Online SC 453*** From investigation till culmination of appeal/revision, victim has right to be heard at every step post the occurrence of an offence. The victims' rights are totally independent, incomparable, and are not accessory or auxiliary to those of the State under the Cr.P.C. The presence of 'State' in the proceedings, therefore, does not tantamount to according a hearing to a 'victim' of the crime. Victims certainly cannot be expected to be sitting on the fence and watching the proceedings from afar, especially when they may have legitimate grievances. It is the solemn duty of a court to deliver justice before the memory of an injustice eclipses.
3.	***D Reddeppa v. The State of Karnataka, Criminal Appeal No. 1113/2015 (Judgment Dated 5.9.2022 Karnataka High Court)*** While delivering final judgments after completion of trial, Magistrate and Sessions Judge must pass a reasoned order as to whether there is a need to make a recommendation for payment of compensation for the rehabilitation of the victim of a crime or not, under Section 357A of the Criminal Procedure Code. Unlike Section 357, the recommendation to pay compensation to the victim is not dependent on the verdict of guilty. Even in the event of acquittal or discharge of the accused, there can be a recommendation for compensation under Section 357A of the Code. In terms of the mandate under sub-section (2) of Section 357A of the Code, the Court may recommend the District Legal Services Authority or the State Legal Services Authority for compensation to be paid to the victim

4.	***Maleka Khatun v. State of W.B., 2022 SCC OnLine Cal 1755*** The High Court came down heavily on the State Legal Services Authority (SLSA) for not having enough funds to provide compensation to victims as per the West Bengal Victim Compensation Scheme, 2017 and thus directed the State government to ensure disbursal of adequate funds within 6 weeks. It was further averred that the Code of Criminal Procedure as well as the Notification published by the State in 2017 makes it mandatory on the State Government not only to make a separate budget for victim compensation but also to constitute a fund with the specific nomenclature of "Victim Compensation Fund" for disbursing amount to the victims who need rehabilitation. This state of affairs cannot surely be permitted to continue for an indefinite period of time. Victims who have suffered loss or injury or any kind of physical or mental agony have been brought within the purview of The Code of Criminal Procedure for a stated purpose. The State or the SLSA cannot take the position that it does not have funds to compensate the victims.
5.	***X. v. State of Jharkhand and Ors, (2021) 2 SCC 598*** Compensation and Rehabilitation measures for rape victim and her children.
6.	***Dharmesh v. State of Gujarat, (2021) 7 SCC 198*** In cases of offences against body, compensation to the victim should be a methodology for redemption. Similarly, to prevent unnecessary harassment, compensation has been provided where meaningless criminal proceedings had been started. Such a compensation can hardly be determined at the stage of grant of bail. The court added that it does not mean no monetary condition can be imposed for grant of bail. As there are cases of offences against property or otherwise but that cannot be a compensation to be deposited and disbursed as if that grant has to take place as a condition of the person being enlarged on bail.
7.	***Rekha Murarka v. State of W.B., (2020) 2 SCC 474*** Law clarified with respect to extent of right of victim's counsel to assist the prosecution as per the scheme envisaged by Cr.P.C.
8.	***Karan v. State NCT of Delhi, 2020 SCC OnLine Del 775*** There exists a mandatory duty on the Court to apply its mind to the question of victim compensation under Section 357 of the CrPC in every criminal case. The court is duty-bound to provide reasons, in every criminal case, based upon which it has exercised its discretion in awarding or refusing the compensation. While observing that the quantum of the compensation is to be determined by the courts, based on factors such as the gravity of the offence, severity of mental and physical harm/injury suffered by the victim, damage/losses suffered by the victims and the capacity of the accused to pay, the court laid down the following steps to be followed: Post-conviction of the accused, the trial court shall direct the accused to file particulars of his income and assets through an affidavit accompanied with supporting documents within 10 days. After the conviction of the accused, the State shall file an affidavit disclosing the expenses incurred on the prosecution within 30 days. On receiving the accused's affidavit, the trial court shall send the copy of the judgment and the affidavit to the Delhi State Legal Services Authority (DSLSA). The DSLSA shall then conduct a summary inquiry to compute the loss suffered by the victim and the paying capacity of the accused. It shall submit the victim impact report along with its recommendations within 30 days. The DSLSA may request the assistance of the concerned SDM, SHO and/or the prosecution in this exercise. The trial court shall then consider the victim impact report, considering the factors enumerated above, hear the parties involved including the victim(s) and accordingly award compensation to the victim(s) and cost of the prosecution to the State if the accused has the capacity to pay. The court shall direct the accused to deposit the compensation with DSLSA whereupon DSLSA shall disburse the amount to the victims according to their scheme. If the accused does not have the capacity to pay the compensation or the compensation

	awarded against the accused is not adequate for rehabilitation of the victim, the court shall invoke Section 357-A CrPC to recommend the case to the Delhi State Legal Services Authority for award of compensation from the victim compensation fund under the Delhi, Victims Compensation Scheme, 2018. In matters of appeal or revision where Section 357 has not been complied with, the public prosecutor shall file an application seeking court's direction for enforcing this procedure in accordance with Section 357(4) of the CrPC.
9.	***District Collector v. District Legal Service Authority, 2020 SCC OnLine Ker 8292*** The victims under Section 357A (4) of the CrPC are entitled to claim compensation for incidents that occurred even prior to the coming into force of the said provision. By giving the benefit to victims under Section 357A (4) CrPC, for crimes that occurred prior to 31-12-2009, the statutory provision is not given retrospective effect and instead a prospective benefit is given based on an antecedent fact. Rehabilitation of the victim is the scope, purport and import of Section 357A (4) CrPC, when read along with Section 357A (1) CrPC. While interpreting a provision brought in as a remedial measure, that too, as a means of welfare for the victims of crimes, in which the perpetrators or offenders have not been identified and in which trial has not taken place, the Court must always be wary and vigilant of not defeating the welfare intended by the legislature. In remedial provisions, as well as in welfare legislation, the words of the statute must be construed in such a manner that it provides the most complete remedy which the phraseology permits. The Court must, always, in such circumstances, interpret the words in such a manner, that the relief contemplated by the provision, is secured and not denied to the class intended to be benefited.
10	***XYZ v. State of Chhattisgarh, 2020 SCC OnLine Chh 161*** The Chhattisgarh High Court held in a Writ petition that the Petitioner (the Rape victim) was entitled to compensation (₹7 lakhs along with interest) under Section 357-A of the CrPC read with Section 33(8) of the POCSO Act. It is mandatory duty of Courts to apply its mind to question of compensation in every criminal case, that too by recording reasons. It was observed that despite clear mandate contained in Section 357-A of the Code and mandate of the Supreme Court in this regard, the criminal courts are not even considering the question of compensation to the victims, particularly the rape victims which is not only disturbing but warranting remedial steps to be taken forthwith.
11	***Amir Hamza Shaikh & Ors. v. State of Maharashtra & Anr., (2019) 8 SCC 387*** Victim's right to assist court in a trial before magistrate – Parameters to grant permission to conduct prosecution. It was pointed that though the Magistrate is not bound to grant permission at the mere asking but the victim has a right to assist the Court in a trial before the Magistrate. The Magistrate may consider as to whether the victim is in a position to assist the Court and as to whether such complexities which cannot be handled by the victim. On satisfaction of such facts, the Magistrate would be well within its jurisdiction to grant permission to the victim to take over the inquiry of the pendency before the Magistrate.
12	***Amol Vithalrao Kadu v. Satte of Maharashtra, (2019) 13 SCC 595*** If a person in the custody of police is subjected to any torture, inhuman treatment or violence or custodial death takes place then courts can not only take appropriate action against the responsible police officer but can also provide compensation to the dependents of the deceased or the victim of the illegal torture or violence.
13	***Mallikarjun Kodagali (Dead) v. State of Karnataka & Ors., (2019) 2 SCC 752*** Nature, scope and applicability of right available to victim as defined in Section 2 (wa) of Cr.P.C. – Victim Impact Assessment needs to be undertaken so as to determine punishment. The victim's right to participate in the criminal proceedings which includes right to be impleaded, right to know, right to be heard and right to assist the court in the pursuit of truth has been recognised.

14	***Nipun Saxena & Anr. . Union of India, (2019) 2 SCC 703*** The Supreme Court deemed it appropriate for National Legal Services Authority (NALSA) to set up a Committee to prepare Model Rules for Victim Compensation for sexual offences and acid attacks. Thereafter, the Committee finalised the Compensation Scheme for Women Victims/Survivors of Sexual Assault/other Crimes 2018. As per the scheme, a victim of gang rape would get a minimum compensation of Rs 5 lakhs and up to a maximum of Rs 10 lakhs. Similarly, in case of rape and unnatural sexual assault, the victim would get a minimum of Rs 4 lakhs and a maximum of Rs 7 lakhs. The victims of acid attacks, in case of disfigurement of face, would get a minimum compensation of Rs 7 lakhs, while the upper limit would be Rs 8 lakhs. The court then accepted the said scheme to be applicable across India, which remains the law of the land.
15	***Serina Mondal v. State of W.B., 2018 SCC OnLine Cal 4238*** The victim compensation scheme is retrospective in nature, if a crime was committed before the scheme was implemented, the victim still cannot be denied compensation if it deserves the compensation. A victim is granted compensation under Section 357-A because the fundamental right to life is violated, and denial or delay of compensation would "continue such violation and perpetrate gross inhumanity on the victim in question."
16	***State of H.P. v. Sanjay Kumar, (2017) 2 SCC 51*** Survivor centric approach towards rape victims is the need of the hour.
17	***Tekan v. State of M.P., (2016) 4 SCC 461*** A visually challenged girl was raped by the accused on promise of marriage and subsequently abandoned on her Pregnancy, the Supreme Court delving on the issue of compensation opined, "it is clear that no uniform practice is being followed in providing compensation to the rape victim for the offence and her rehabilitation. This practice of giving different amount ranging from Rs. 20000 to Rs. 10 lakhs for the offence of rape under Section 357A needs to be introspected by all States and Union territories." In the instant case, the court ordered the state to pay Rs. 8000 per month as compensation till her life time.
18	***Manohar Singh v. State of Rajasthan, (2015) 3 SCC 449*** Victims should be given proper health care for their physical injuries, mental health care for the trauma, stress etc. caused, community assistance to help them overcome difficulties faced due to the crime and finally compensation for the damages caused by the crime. Rehabilitating a victim is as important as punishing the accused. Victim's plight cannot be ignored even when a crime goes unpunished for lack of adequate evidence. In spite of legislative changes and decisions of this court, this aspect (victims' rehabilitation) at times escapes attention. The court has to give attention not only to the nature of crime, prescribed sentences, mitigating and aggravating circumstances to strike just balance in the needs of society and fairness to the accused, but also to keep in mind the need to give justice to the victim of crime. We find that the court of sessions and the high court have not fully focused on the need to compensate the victim which can now be taken to be integral to just sentencing.
19	***Ram Lakhan Singh v. State of UP, (2015) 16 SCC 715*** The Supreme Court while exercising jurisdiction under Article 32 of the Constitution awarded a lump sum compensation of Rs. 10 lakhs for loss of professional career, reputation, great mental agony, heavy financial loss and defamation on account of malicious prosecution and imprisonment.
20	***Suresh v. State of Haryana, (2015) 2 SCC 227***

	The Supreme Court issues directions with regard to compensation, interim compensation and rehabilitation of victims of crime. The object of Section 357A Cr.P.C. is to pay compensation to victims where compensation paid under Section 357 is not adequate or where the case ended up in acquittal or discharge or where the victim is required to be rehabilitated. It is the duty of the court to ascertain financial need of victim of crime *immediately* and to direct grant of interim compensation, on its own motion irrespective of application of victim. At the stage of final hearing it is obligatory on the part of the court to advert to the provision and record a finding whether a case for grant of compensation has been made out and, if so, who is entitled to compensation and how much. Gravity of offence and need of victim are some of the guiding factors to be kept in mind, apart from such other factors as may be found relevant in the facts and circumstances of an individual case. The National Judicial Academy to provide requisite training to judicial officers in the country to make Sections 357 and 357A operative and meaningful.
21	***Ram Phal v. State, 2015 SCC OnLine Del 9802*** Right to appeal being a substantive right always acts prospectively thus, all cases in which orders were passed by any criminal court acquitting the accused or convincing him for a lesser offence or imposing inadequate compensation, passed on or after the date on which amendment was made, the victims in those cases would have the qualified right mentioned in the proviso of Section 372 Cr.P.C.
22	***Laxmi v. Union of India, (2014) 4 SCC 427*** The need for uniformity in the manner of awarding compensation under the Victim Compensation Scheme was emphasized. Sec 357 A was inserted in the CrPC regarding recompensating the survivors under which : • The state govt. along with the central government shall frame a scheme for compensation. • The quantum of damages to be given to the survivor under the scheme shall be finalised by the legal services authority of the district or the state on recommendation of the court. • The court can make recommendations if it finds the compensation to be inadequate to meet the expenses or in case the offender is acquitted. • In case the offender remains to be unidentified then also the survivor or his/her reliant can move an application regarding compensation in the district or state legal services authority which shall conduct an enquiry within 2 months of receiving the application and accordingly award compensation to the victim. • Such an authority can award unpaid medical treatment to the victim on issuance of a certificate by the officer in charge of the police station or by the magistrate. Sec 357 B was added to the CrPC again which makes it clear that this compensation scheme under CrPC is apart and in addition to the fine that shall be paid to the victim under Section 326 A and B of the IPC. The Court gave following directions: • That the victim shall be pain 3 lakh rupees of minimum compensation. • That the hospitals are not allowed to turn their back for treating a victim citing the reason for non-availability of medical facilities and on denying treating the victim, such a hospital or medical practician shall be made liable under Sec. 357 C of CrPC. • The first aid treatment of the victim should be given the first priority. • That the hospital which treats the survivor initially shall issue a medical certificate to the victim for the purpose of further reference for treatment. • That both state and central govts shall make effort to streamline the private hospitals as well into treating the acid attack victims.
23	***Indian Woman Says Gang-Raped on Orders of Village Court, 2014 SCC OnLine SC 90***

	The court observed that as against an amount of Rs. 50000 agreed to be paid by the state to the victim under the Victim Compensation Scheme, the state is required to make a payment of Rs. 5 lakhs in addition to the sanctioned amount. The court expressed concern over security and safety of the victim and emphasized that merely providing interim measures may not be enough, but 'long term rehabilitation' is necessary.
24	***Ankush Shivaji Gaikwad v. The State of Maharashtra, (2013) 6 SCC 770*** While the award or refusal of compensation under Section 357 of Code of Criminal Procedure, in a particular case may be within the court's discretion, there exists a mandatory duty on the court to apply its mind to the question in every criminal case. Application of mind to the question is best disclosed by recording reasons for awarding/refusing compensation. The legislative intent of the provisions relating to victim compensation was to reassure the victim that he is not a forgotten party in the criminal justice system.
25	***Tata Steel Ltd. v. Atma Tube Products Ltd., 2013 SCC OnLine P&H 5834*** The court held that for the purposes of Victim Compensation Scheme, only those dependents who have suffered loss or injury due to the crime and need compensation and rehabilitation are eligible and the "legal heir" do not have anything to do with Section 357A of the Code.
26	***Rattiram v. State of M.P., (2012) 4 SCC 516*** Speedy trial cannot be regarded as an exclusive right of the accused. The delay in conclusion of the trial has direct nexus with the collective cry of the society and agony of a victim. One cannot afford to treat the victim as an alien or total stranger to the criminal trial. Criminal jurisprudence, with the passage of time, has laid emphasis on victimology which fundamentally is a perception of a trial from the view point of the criminal as well as the victim. It is the duty of the court to see that the victims' right is protected.
27	***Nirmal Singh Kahlon v. State of Punjab, AIR 2009 SC 984*** The right to fair investigation and trial applies to the accused as well as the victim and such a right to a victim is provided under Article 21 of the Constitution of India. It laid down that the victims are equally entitled to a fair investigation.
28	***Dilip S. Dahanukar v. Kotak Mahindra Co. Ltd. and Anr., (2007) 6 SCC 528*** While considering the difference between the provisions of Section 357(1)(b) and Section 357(3), Cr.P.C., i.e., the difference between "fine" and "compensation" this Court observed that the distinction between Sub-Sections (1) and (3) of Section 357 is apparent as Sub-Section (1) provides for application of an amount of fine towards the purposes indicated while imposing a sentence of which fine forms a part, whereas Sub-Section (3) is applicable in a situation where the Court imposes a sentence of which fine does not form a part of the sentence. This Court went on to observe that when fine is not imposed, compensation can be directed to be paid for loss or injury caused to the complainant by reason of commission of offence and while Sub-Section (1) of Section 357 provides for application of the amount of fine, Sub-Section (3) of Section 357 seeks to achieve the same purpose.
29	***Ashwani Gupta v. Govt. of India, 2005 SCC OnLine Del 20*** The Delhi High Court held that mere punishment of the offender cannot give much solace to the family of the victim. Since the civil action for damages is a long drawn/cumbersome judicial process, the compensation of Section 357 would be a useful and effective remedy.
30	***Sakshi v. Union of India, AIR 2004 SC 3566*** The Supreme Court mandated trials to be in camera particularly when the victim is a child or rape (or both) victim to protect their honour and dignity.

31	***Zahira Habibulla H. Sheikh v. State of Gujarat, (2004) 4 SCC 158*** Application of principles of fair trial involves a delicate judicial balancing of competing interests in a criminal trial, the interests of the accused and the public and to a great extent that of the victim have to be weighed not losing sight of the public interest involved in the prosecution of persons who commit offences.
32	***Mangilal v. State of Madhya Pradesh, AIR 2004 SC 1280*** The court held that the power of the court to award compensation to the victims under Section 357 is not ancillary to other sentences but in addition thereto. Also, observed that the imposition of fine is the basic and essential requirement, while in the latter even the absence thereof empowers the court to direct payment of compensation. This power is available to be exercised by an appellate court.
33	***P. Ramachandra Rao v. State of Karnataka, (2002) 4 SCC 578*** It is necessary to give a dominant role of the victims of crime, as otherwise, the victim will remain discontented and may develop a tendency to take law into his own hands in order to seek revenge and pose a threat to the maintenance of Rule of Law, essential for sustaining a democracy.
34	***Rabindra Nath Ghoshal v. University of Calcutta & Ors., AIR 2002 SC 3560*** The courts have an obligation to satisfy the social aspiration of the citizens and they have to apply the tool and grant compensation as damages in a public law proceeding seeking enforcement of fundamental rights and the same does grant compensation too by penalising the wrongdoer.
35	***Chairman, Railway Board and Others v. Mrs. Chandrima Das, (2000) 2 SCC 465*** The victim who was the national of Bangladesh was raped many times by the railway officers was awarded the compensation of amount of 10 lakhs by the Supreme Court of India. The court held that even though she may be a foreigner she was entitled for the right to life in India under article 21 of Indian Constitution.
36	***Raj Deo Sharma (II) v. State of Bihar, (1999) 7 SCC 604*** Fixing an outer time limit for conclusion of criminal trial will lead to injustice to the society, to the victims or the heirs of the victim, for such delay in trial they are not responsible.
37	***State of Gujarat v. High Court of Gujarat, (1998) 7 SCC 392*** In our effort to look after and protect the human rights of the accused or human rights of the convict we cannot forget the victim or his family in case of his death or who is otherwise incapacitated to earn his livelihood because of the crime committed by an offender.
38	***D.K. Basu v. State of West Bengal, (1997) 1 SCC 416*** It was stated that the victims or the heirs of the deceased victims are entitled to claim compensation for the tortious act so committed by the functionaries of the state.
39	***M.C. Mehta v. Kamal Nath, (1997) 1 SCC 388*** The Supreme Court awarded compensation to the victims of environment pollution. Some damages have been appropriated under it- (a) Damages for restoration of the environment and ecology; (b) Damages to those victims who may have suffered loss on account of the act of pollution; (c) Exemplary damages are provided to those who are detained from causing environmental pollution.
40	***Paschim Banga Khet Mazdoor Samity v. State of W.B., (1996) 4 SCC 37*** The Constitution envisages the establishment of a welfare State at the federal level as well as at the State level. In a welfare State the primary duty of the Government is to secure the welfare of the people. Providing adequate

	medical facilities for the people is an essential part of the obligations undertaken by the Government in a welfare State. In the present case there was breach of the said right of Hakim Seikh guaranteed under Article 21 when he was denied treatment at the various government hospitals which were approached even though his condition was very serious at that time and he was in need of immediate medical attention. Since the said denial of the right of Hakim Seikh guaranteed under Article 21 was by officers of the State, in hospitals run by the State, the State cannot avoid its responsibility for such denial of the constitutional right of Hakim Seikh. In respect of deprivation of the constitutional rights guaranteed under Part III of the Constitution the position is well settled that adequate compensation can be awarded by the court for such violation by way of redress in proceedings under Articles 32 and 226 of the Constitution. The court directed compensation of Rs. 2500 to be paid to the petitioner for denial of emergency medical aid by government hospitals
41	***Bodhisattwa Gautam v. Subhra Chakraborty, AIR 1996 SC 922*** The Supreme Court held that if the court trying an offence of rape has jurisdiction to award compensation at the final stage, the Court also has the right to award interim compensation. The court, having satisfied the prima facie culpability of the accused, ordered him to pay a sum of Rs. 1000 every month to the victim as interim compensation along with arrears of compensation from the date of the complaint. The Supreme Court issued a set of guidelines to help indigenous rape victims who cannot afford legal, medical and psychological services, in accordance with the Principles of UN Declaration of Justice for Victims of Crime and Abuse of Power, 1985.
42	***Delhi Working Women's Forum v Union of India, (1995) 1 SCC 14*** The Supreme Court directed to evolve a scheme for the compensation and rehabilitation of rape victims and laid down certain guidelines for assisting the victims of rape. It provided that having regard to the Directive Principles contained under Art 38(1) of the Constitution of India, it is necessary to set up the Criminal Injuries Compensation Board. According to the guidelines, the court shall order to provide compensation to the victims on conviction of the offender and by the Criminal Injuries Compensation Board irrespective of whether the conviction has taken place.
43	***Kewal Pati v. State of U.P., (1995) 3 SCC 600*** Jail authorities have responsibility to ensure life and safety of convict in jail. Therefore, the court directed award of Rs. 1 lakh compensation to the widow and children of the deceased convict while serving sentence in jail.
44	***Baldev singh v. State of Karnataka, (1995) 6 SCC 593*** The apex court ordered the compensation by invoking the provision of section 357(3) and held that ordering the compensation to be paid is more appropriate than giving the punishment to the accused. The court used its judicial power under this provision to benefit the victim by ordering the compensation instead of enhancing the punishment.
45	***Balraj v. State of U.P., (1994) 4 SCC 29*** Section 357(3) CrPC provides for ordering of payment by way of compensation to the victim by the accused and it must also be noted that power to award compensation is not ancillary to other sentences but it is in addition thereto. The court directed payment of Rs. 10000 as compensation to the widow of the deceased.
46	***Dr. Jacob George v. State of Kerala, (1994) 3 SCC 430*** The need to address 'cry of victims of crime' is paramount and separate from the issue of punishment of the offender. The victims have right to get justice, to remedy the harm suffered as a result of crime. This right is different from and independent of the right to retribution, responsibility of which has been assumed by the state

	in a society governed by Rule of Law. But if the state fails in discharging this responsibility, the state must still provide a mechanism to ensure that the victim's right to be compensated for his injury is not ignored or defeated.
47	***General Manager Kerala SRTC v. Susamma Thomas, (1994) 2 SCC 176*** It was observed that that determination of compensation must be just, fair and reasonable. Multiplier method of computation was explained and applied to determine quantum of compensation and it was held to be the proper, logically sound and well established method for determining first compensation.
48	***Nilabati Behara v. State of Orissa, (1993) 2 SCC 746*** The decision provides that the jurisprudential reasoning behind the award of damages in cases of violation of fundamental rights was elucidated in, which can truly be considered. The concept of Victim Jurisprudence has been evolved on the basis of Supreme Court's analyses on the fact that the constitutional rights of a person are invaded and that cannot be taken away merely by the restoration of rights. So while invoking Article 32 of the Constitution the Supreme Court provided two types of monetary reliefs namely compensation and exemplary costs, by introducing compensatory jurisprudence under Article 32.
49	***Supreme Court Legal Aid Committee v. State of Bihar, (1991) 3 SCC 482*** It is the obligation of the police particularly after taking a person in custody to ensure appropriate protection of the person including medical care if the person needs it. In the instant case, the state of Bihar was directed to pay compensation of Rs. 20000 to the legal representatives of the deceased.
50	***Bhaskaran v. Sankaran Vaidhyan Balan, (1999) 7 SCC 510*** While considering the scope and extent of Section 357(3) Cr.P.C. Supreme Court laid down that the Magistrate can award any sum of compensation and cannot restrict itself in awarding compensation under Section 357(3) since there is no limit in sub-section (3). The magistrate needs to fix the quantum of compensation on the grounds of reasonability.
51	***Union Carbide Corporation v. Union of India, (1989) 2 SCC 540*** The Union Carbide Corporation was ordered to indemnify 470 million dollars to the Union of India to settle all claims payable on or before March 31, 1989. The court explained the manner of calculating the value of compensation while taking relevant factors into consideration.
52	***Hari Singh v. Sukhbir Singh (1988) 4 SCC 551*** While awarding compensation, it is an obligation on the court to take into account, the nature of the crime, the injury suffered, the justness of claim for the compensation, the ability of the accused to pay and other relevant circumstances in fixing the amount of fine or compensation. The Apex court had expressly directed all the courts to make the exercise of the Sec. 357 and need to compensate the victims, especially in that case when the accused gets release on admonition, probation or when both parties enter into a compromise. The courts should use their powers as liberally as they can, in order to provide the adequate compensation to the victim.
53	***People's Union for Democratic Rights Thru. Its Secy. v. Police Commissioner, Delhi Police Headquarters, (1989) 4 SCC 730*** The court issued directions for payment of compensation to victims of police atrocities and the family of the deceased and the amount of compensation was to be recovered out of the salaries of the guilty police officers after giving them opportunity to show cause.
54	***M.C. Mehta v. Union of India, AIR 1987 SC 965***

	The supreme court while dwelling upon the ambit of Article 32 said that the power under the said provision was not limited to just preventive measures in case of infringement of fundamental rights. But it also covered the power to take remedial measures such as giving compensation.
55	***People's Union for Democratic Rights v. State of Bihar, (1987) 1 SCC 265*** The Apex Court enhanced the compensation from Rs. 10000 to Rs. 20000 to the dependents of the deceased and Rs. 5000 to those injured on account of police firing on backward class people.
56	***Bhim Singh v. State of Jammu Kashmir, AIR 1986 SC 494*** In appropriate cases, Supreme Court has jurisdiction to award monetary compensation by way of exemplary costs or otherwise. On facts, the state of Jammu & Kashmir was directed to pay Rs. 50000 to the petitioner MLA for deliberately preventing him from attending session of Legislative Assembly by arresting and illegally detaining him in police custody.
57	***Rudal Sah v. State of Bihar, (1983) 4 SCC 141*** The Supreme Court recognized the petitioner's right to claim compensation for illegal detention and awarded a total sum of Rs. 35000 by way of compensation. The court observed that Art 21 which guarantees the right to life and liberty will be denuded of its significant content if the power of this Court were limited to passing orders of relief from illegal detention. One of the telling ways in which the violation of that right can reasonably be prevented and due compliance with the mandate of Art 21 secured is to mullet its violators in the payment of monetary compensation.
58	***Khatri (IV) v. State of Bihar, (1981) 2 SCC 493*** When the court trying the writ petition proceeds to inquire into the issue whether the petitioners were blinded by the police officials at the time of arrest or whilst in police custody, it does so not for the purpose of adjudicating upon the guilt of any particular officer but for the purpose of deciding whether the fundamental right of the petitioners under Article 21 has been violated and the state is liable to pay compensation to them for such violation.
59	***Maru ram v. Union of India, AIR 1980 S.C. 2147*** While social responsibility of the criminal to restore the loss or heal the injury is a part of the punitive exercise, the length of the prison term is no reparation to the crippled or bereaved but is futility compounded with cruelty and victimology must find fulfillment not through barbarity but by compulsory recoupment by the wrongdoer of the damage inflicted not by giving more pain to the offender but by lessening the loss of the forlorn. While considering the problem of penology the Court should not overlook the plight of victimology and the suffering of the people who die, suffer or are maimed at the hands of the criminals.
60	***Hussainara Khatoon & Ors v. Home Secretary, State of Bihar, AIR 1979 SC 1369*** The court recognised victimization due to abuse of state power and felt the need to address and redress such grave violation of basic human rights which directly infringed the fundamental right to live with dignity under Article 21 of the Constitution.
61	***Rattan Singh v. State of Punjab, (1979) 4 SCC 719*** It is a weakness of our jurisprudence that victims of crime and the distress of the dependents of the victim do not attract the attention of the law. Reparation for the victim remains the vanishing point of our criminal law. This is the system weakness, which the legislature must rectify.

62	***Sarwan Singh v. State of Punjab, (1978) 4 SCC 111*** The Supreme Court laid down, in an exhaustive manner, points to be taken into account while imposing fine or compensation. It observed that while awarding compensation, it is necessary for the court to decide whether the case is fit enough to award compensation. If the case is found fit for compensation, then the capacity of the accused to pay the fixed amount has to be determined. The Supreme Court of India had pronounced upon the need by the government to setup a Criminal Injuries Compensation Board for rape victims within 6 months. The Supreme Court had suggested that this board should give compensation whether or not a conviction takes place. It was held that it is necessary, having regard to the Directive Principles contained under Article 38(I) of the Constitution of India to setup Criminal Injuries Compensation Board. Rape victims frequently incur substantial financial loss. Some, for example are too traumatized to continue in employment. Compensation for victims should be awarded by the court on conviction of the offender and by the Criminal Injuries Compensation Board whether or not a conviction takes place. The board will take into account pain suffering and shocks as well as loss of earnings due to pregnancy and the expenses of the child but if it occurred as a result of rape.
63	***Palaniappa Gounder v. State of Tamil Nadu, AIR 1977 SC 1323*** This is the first landmark judgment where compensation to the victim ordered by the Madras High Court was upheld with some modifications by the Supreme Court of India. In this case, the High Court after commuting the sentence of death on the accused to one of life imprisonment, imposed a fine of Rs.20,000 on the appellant and directed that out of the fine, a sum of Rs.15,000 should be paid to the son and daughters of the deceased under Section 357 (1) (c) of the Code of Criminal Procedure, 1973. The Supreme Court while examining the special leave petition of the appellant observed that there can be no doubt that for the offence of murder, courts have the power to impose a sentence of fine under Section 302 of the IPC but the High Court has put the "cart before the horse" in leaving the propriety of fine to depend upon the amount of compensation. The Supreme Court thus reduced the fine amount from Rs.20,000 to 3,000 and directed to pay the amount to the son and daughter of the deceased who had filed the petition in High Court. So, here the Supreme Court has reduced the amount of fine and achieved a proper blending of offender rehabilitation and victim compensation.
64	***State of Gujarat v. Shantilal Mangaldas, AIR 1969 SC 634*** The term "Compensation" in present context means amends for the loss sustained. Compensation is anything given to make things equivalent, a thing given to make amends for loss, recompense, remuneration or pay.