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<i>(Judgments mentioned below include citations and short notes for reference. Please refer full judgment (available in pen drive) for conclusive opinion)</i>		
1.	<i>Centre for Environmental Law WWF 1 v. Union of India</i> , Writ Petition(s)(Civil) No(s).337/1995; Order Dated: 28.01.2020 (Supreme Court) [The Supreme Court held that it is not desirable that the introduction of the African Cheetahs into India be left to the sole discretion of the National Tiger Conservation Authority (NTCA). NTCA be guided and directed by the Committee of Experts in the field who would carry out the survey for the best location for introducing the African Cheetahs in India and take a careful decision about the viability of introducing this animal on a larger scale]	
2.	<i>Municipal Corporation of Greater Mumbai v. Worli Koliwada Nakhwa Matsya Vyavasay Sahakari Society Ltd and Others</i> Petition(s) for Special Leave to Appeal (C) No(s).17471-17476/2019; Order Dated: 30-09-2022 (Supreme Court) [The Supreme Court observed that it is wrong to ask developing countries to halt projects citing climate change]	
3.	<i>Pahwa Plastics Pvt. Ltd. v. Dastak NGO</i> , 2022 SCC OnLine SC 362 [The 1986 Act does not prohibit Ex post facto Environmental Clearance (EC), however, it should not be granted routinely, but in exceptional circumstances taking into account all relevant environmental factors. Where the adverse consequences of denial of Ex post facto approval outweigh the consequences of regularization of operations by grant of Ex post facto approval, and the establishment concerned otherwise conforms to the requisite pollution norms, Ex	

post facto approval should be given in accordance with law, in strict conformity with the applicable Rules, Regulations and/or Notifications. The deviant industry may be penalised by an imposition of heavy penalty on the principle of 'polluter pays' and the cost of restoration of environment may be recovered from it. An establishment contributing to the economy of the country and providing livelihood ought not to be closed down only on the ground of the technical irregularity of not obtaining prior Environmental Clearance irrespective of whether or not the unit actually causes pollution]

4. ***In Re : TN Godavarman Thirumalpad v. Union of India***, 2022 LiveLaw (SC) 540 [Guidelines issued by the Union Ministry for Ecologically Sensitive Zones (ESZ) near protected forests held to be reasonable. Further directions issued in relation to ESZ -No new permanent structure shall be permitted to come up for whatsoever purpose within the ESZ. Mining within the national parks and wildlife sanctuaries shall not be permitted. The court further held that Public Trust Doctrine is part of the law of land. The role of the State cannot be confined to that of a facilitator or generator of economic activities for immediate upliftment of the fortunes of the State. The State also has to act as a trustee for the benefit of the general public in relation to the natural resources so that sustainable development can be achieved in the long term. Such role of the State is more relevant today, than, possibly, at any point of time in history with the threat of climate catastrophe resulting from global warming looming large]
5. ***T.N. Godavarman Thirumalpad v. Union of India***, 2022 LiveLaw (SC) 467 [Adherence to the principle of sustainable development is a constitutional requirement and the Precautionary Principle is an essential feature of the principle of 'Sustainable Development'. In case of a doubt, protection of environment would have precedence over the economic interest]
6. ***Binay Kumar Dalei v. State of Odisha***, (2022) 5 SCC 33 [The Supreme Court upheld the decision of NGT directing that mining activity shall not be permitted within and in the vicinity of Simplipal - Hadagarh - Kuldiha – Simplipal elephant corridor]
7. ***Samaj Parivarthana Samudaya v. State of Karnataka***, 2022 SCC OnLine SC 1104 [The Supreme Court lifted curbs on iron sale and export from mines in Karnataka and relaxes the directions issued in 2011]
8. ***Madhya Pradesh High Court Advocates Bar Association v. Union of India***, 2022 SCC OnLine SC 639 [The role of the NGT was not simply adjudicatory, but it also had the equally vital role which is preventive, ameliorative, or of the remedial category. The Court further held that NGT under Section 14 & 22 of the NGT Act does not oust the High Court's jurisdiction under Article 226 & 227 as the same is a part of the basic structure of the Constitution]
9. ***Kantha Vibhag Yuva Koli Samaj Parivartan Trust v. State of Gujarat***, 2022 SCC OnLine SC 120 [NGT cannot refuse to hear a challenge to an Environmental Clearance under Section 16(h) of the NGT Act and delegate the process of adjudicating on compliance to an expert committee]
10. ***Narinder Singh and Others v. Divesh Bhutani and Others*** 2022 SCC OnLine SC 899 [The Supreme Court held that prior permission of the Central Government is required to allow any change of user of forest or deemed forest land]
11. ***D. Swamy v. Karnataka State Pollution Control Board***, 2022 SCC OnLine SC 1278 [The Supreme Court reiterated that the grant of ex post facto environmental clearance in exceptional cases is not impermissible]
12. ***Electrosteel Steels Ltd. v. Union of India***, 2021 SCC OnLine SC 1247 [The question was whether an establishment contributing to the economy of the country and providing livelihood to hundreds of people

should be closed down for the technical irregularity of shifting its site without prior environmental clearance, without opportunity to the establishment to regularize its operation by obtaining the requisite clearances and permissions, even though the establishment may not otherwise be violating pollution laws, or the pollution, if any, can conveniently and effectively be checked. The answer was held to be in the negative]

13. **Municipal Corporation of Greater Mumbai v. Ankita Sinha and Others**, 2021 SCC OnLine SC 897 [NGT is not merely an adjudicatory forum; Inquisitorial functions are also available with it to protect environment]
14. **Himachal Bus Stand Management Authority v. Central Empowered Committee & Others**, (2021) 4 SCC 309 [The environmental rule of law seeks to create essential tools – conceptual, procedural and institutional to bring structure to the discourse on environmental protection. It does so to enhance our understanding of environmental challenges – of how they have been shaped by humanity’s interface with nature in the past, how they continue to be affected by its engagement with nature in the present and the prospects for the future, if we were not to radically alter the course of destruction which humanity’s actions have charted.]
15. **Hospitality Association of Mudumalai v. In Defence of Environment and Animals and Others**, (2020) 10 SCC 589 [It was held that the State Government is empowered to take measures to protect forests and wildlife falling within its territory in light of Entries 17A ‘Forest’ and 17B ‘Protection of wild animals and birds’ in the concurrent list and the power of the State Government under the Wildlife Act to notify Sanctuaries and other protected areas. Therefore, State Government was empowered to protect the habitats situated on a private land by notifying an elephant corridor]
16. **Animal Welfare Board of India v. A. Nagaraja and Others**, (2014) 7 SCC 547 [The Supreme Court held that Jallikattu is not an exception under the Protection of Animals from Cruelty Act on the account of human necessities since the pain, suffering and anxiety inflicted to bulls during Jallikattu events is primarily for the pleasure of humans and can be easily avoided]
17. **Centre For Environmental Law WWF-India v. Union of India**, (2013) 8 SCC 234 [The Court struck down an order of the Ministry of Environment, Forest & Climate Change to introduce the African Cheetahs in Kuno in Madhya Pradesh on the ground that they had not conducted any detailed study before passing the order of introducing ‘foreign species’ to the territory of India]
18. **Sansar Chand v. State of Rajasthan**, (2010) 10 SCC 604 [The Court issued directions to Central and State Governments and their agencies to make all efforts to preserve the wild life of the country and take stringent actions against those who are violating the provisions of the Wildlife (Protection) Act, as this is necessary for maintaining the ecological balance in the country]
19. **Intellectuals Forum, Tirupathi v. State of A.P.**, (2006) 3 SCC 549 [The Court upheld a ban on the construction of tanks and new wells in an area suffering water shortage. The Court directed the adoption of rainwater harvesting and monitoring its efficacy]
20. **Karnataka Industrial Areas Development Board v. Sri. C. Kenchappa and Others**, (2006) 6 SCC 371 [The Supreme Court dealt with the principles of sustainable development, polluter pays, precautionary principle, public trust doctrine, also emphasized on the requirement of carrying on an impact assessment and obtaining necessary clearance from the State Pollution Control Board and the Department of Ecology and Environment before execution of an industrial activity]
21. **Research Foundation for Science v. Union of India**, (2005) 13 SCC 186 [The polluter pay principle basically means that the producer of goods and other items should be responsible for the cost of preventing or dealing

with any pollution that the process causes. The principle also does not mean that the polluter can pollute and pay for it.]

22. **Indian Handicrafts Emporium v. Union of India**, (2003) 7 SCC 589 [*The Supreme Court held that trade in ivory is totally prohibited under Chapter II-A of the Wildlife Protection Act, 1972 and any person who has obtained a certificate from the Chief Wildlife Warden (CWW) may keep possession of such product but cannot sell it further. Such restriction was held to be 'reasonable' under Article 19(1)(g)]*
23. **M. C. Mehta v. Union of India**, (2002) 4 SCC 356 (Vehicular Pollution Case) [*A four member committee, comprising of a retired Supreme Court judge was formed to recommend measures to control vehicular pollution nationwide. Orders were passed for the supply of lead-free petrol and use of natural gas and other fuels as substitutes for conventional fuels and also carried out]*
24. **Andhra Pradesh Pollution Control Board II v. M.V. Nayudu**, (2001) 2 SCC 62 [*The Court held that in the environmental field, where the uncertainty of scientific opinions have created serious problems for the courts. Uncertainty becomes a problem when scientific knowledge is institutionalized in policy-making by agencies and courts]*
25. **Hinch Lal Tiwari v. Kamala Devi**, (2001) 6 SCC 496 [*The Supreme Court held that the government and other authorities had noticed that a pond was falling in disuse and, therefore, should have bestowed their attention to develop the same. Such an effort would, on one hand, have prevented ecological disaster and on the other, provided better environment for the benefit of the public at large]*
26. **State of Karnataka v. K. Krishnan**, (2000) 7 SCC 80 [*Chapter VI of the Wildlife Protection Act, 1972 makes provision for control of timber and other forest produce in transit. The authorised officer has the power to seize any forest produce together with all tools, boats, vehicles or cattle or any other property used in connection with the commission of an offence in respect of any forest produce. As authorised officer has also the power to release the property seized under Section 62, all timber or forest produce, which is not the property of the Government and in respect of which a forest offence has been committed and all tools, boats, vehicles and cattle used in committing any forest offence are liable to forfeiture by the State Government subject to the provisions of Section 71-G of the Act]*
27. **Narmada Bachao Andolan v. Union of India**, (2000) 10 SCC 664 [*The Court held that when there is a state of uncertainty due to lack of data or material about the extent of damage or pollution likely to be caused, then, in order to maintain the ecological balance, the burden of proof.....must necessarily be on the industry or unit which is likely to cause pollution. On the other hand where the effect on ecology or environment of setting up an industry is known, what has to be seen is that if the environment is likely to suffer, then what mitigating steps can be taken to offset the same. Merely because there will be a change is no reason to presume that there will be ecological disaster. It is when the effect of the project is known that the principle of sustainable development would come into play, which will ensure that mitigating steps are and can be taken to preserve the ecological balance]*
28. **M.I. Builders Pvt. Ltd. v. Radhey Shyam Sahu**, (1999) 6 SCC 464 [*The Supreme Court applied the doctrine of Public Trust when it found that the Lucknow mahapalika entered into a contract with the petitioners for constructing an underground shopping complex beneath a park. The court held that the contract was without tender and also against the public trust doctrine, as the mahapalika had deprived themselves of their obligatory duties as a trustee to maintain parks.]*

29. **Centre For Environmental Law WWF-I v. Union of India**, (1998) 6 SCC 483 [*The Court suo motu gave the directions to 17 States to comply with the provisions under Sec 33-A and Sec 34 of WPA, 1972*]
30. **T.N. Godavarman Thirumulpad v. Union of India and Others**, (1997) 2 SCC 267 [*A petition to protect the deforestation of the forest by illegal timber operations in a forest was expanded by the Supreme Court to create its own monitoring and implementation system at regional and state levels to regulate the felling, use and movement of timber across the country, to preserve India's forest cover*]
31. **S Jagannath v. Union of India**, (1997) 2 SCC 87 [*The Court held that Aquaculture industries functioning within 1km radius of the Chilika Lake must compensate the affected persons; Aquaculture functioning outside the CRZ should obtain prior permission and clearance from the authority within the prescribed time limit failing which they must stop their operations*]
32. **M.C. Mehta v. Kamal Nath**, (1997) 1 SCC 388 [*The apex court applied the doctrine of "Public Trust" for the first time. The government sanction to the deviation of the natural flow of the river for the sake of increasing the facilities of a motel was held to be violating the trust conferred on the state to protect the natural resources*]
33. **M.C. Mehta (Taj Trapezium Matter) v. Union of India**, (1997) 2 SCC 353 [*The Court recognised the need for the protection of the Taj Mahal. The Court relied on the precautionary principle and held that environmental measures must "anticipate, prevent and attack the causes of environmental degradation". It also placed the onus of proof on an industry to show that it operates in a manner that is environmentally benign. This case thus broadened the definition of the right to live and was able to limit industrial practices that were harmful so as to protect people's right to live in a safe environment*]
34. **Animal and Environmental Legal Defence Fund v. Union of India**, (1997) 3 SCC 549 [*The court issued additional conditions for granting fishing licenses which included: Each permit holder shall hold photo ID along with his photograph; these permits are neither transferable nor heritable; each permit holder shall have the right to enter the National Park and reach the reservoir using the highway only; daily record of entry and exit of such permit holders has to be maintained in a register; the fishermen shall be prohibited from lighting fires in the forests for cooking purpose, etc.*]
35. **Ivory Traders and Manufacturers Association v. Union of India**, AIR 1997 DEL 267 [*The court declared that trade and businesses at the costs of disrupting life forms cannot be permitted even once. Further, it was held that Art 19 (1) (g) are not absolute and restrictions can be imposed on them in Public interest*]
36. **Vellore Citizens Welfare Forum v. Union of India**, (1996) 5 SCC 647 [*The court delivering directed all the Tanneries to deposit a sum of Rs. 10,000 as fine. The Court further held that though Tanneries are the major source of foreign exchange and also provides employment to several thousands of people, however, at the same time, it destroys the environment and poses a health hazard to everyone*]
37. **Indian Council for Enviro-Legal Action and Others v. Union of India**, (1996) 3 SCC 212 [*The Court imposed a penalty upon the polluting industries, which was to be paid with compound interest since the industries had intentionally failed to comply with the court's directions, which had seriously impacted the lives of a significant number of residents in the vicinity of the plants. The "polluter pays" principle, entails that if an activity of harmful nature is carried out, then the individuals conducting these activities will be required to compensate those affected to make up for the damage that is caused, irrespective of the fact that precautionary measures were taken in carrying out the activity*]

38. **Pradeep Krishen v. Union of India**, 1996 (8) SCC 599 [The court held that for the tribal to acquire any rights over the forest land in the sanctuaries and national parks proper procedures have to be followed under the WPA, 1972. Till such procedure is complete, the State government cannot bar entry of the villagers or tribal into the Forest until such entry is likely to result in the destruction or damage to the environment of the area]
39. **Union Carbide Commission v. Union of India**, (1991) 4 SCC 584 [The Supreme Court directed the UCC to pay sum of 470 Million U.S. Dollars i.e. Rs. 750 crore towards compensation to the victims for the full and final settlement in satisfaction of all past, present and future claims and the same was accepted by both the parties]
40. **Rural Litigation Entitlement Kendra (RLEK) v. Union of India** AIR 1988 SC 2187 [The doctrine of sustainable development envisions a balance between development and ecology, so that the socio-economic needs of the country are served while reducing the adverse impact on the environment, and administrative and legislative measures for harmonizing environmental and developmental values should be formulated]
41. **M.C. Mehta v. Union of India & Ors.**, (1987) 4 SCC 463 (Kanpur Tanneries Case) [The Court held that the financial capacity of a tannery should be considered irrelevant while requiring them to establish primary treatment plants. Just like an industry which cannot pay minimum wages to its workers cannot be allowed to exist, the tanneries which cannot set up a primary treatment plant cannot be permitted to continue]
42. **Sachidanand Pandey v. State of West Bengal**, (1987) 2 SCC 295 [The Court held that whenever the matter of ecology is brought before the Court, the Court are not to shrug its shoulders saying that it is a matter for policy making authority]
43. **Municipal Council, Ratlam v. Shri Vardhichand & Others**, (1980) 4 SCC 162 [The court upheld public nuisance as a challenge to the component of social justice and rule of law and that decency and dignity are the non-negotiable facets of human rights]

Session 8: Civil Justice Administration: Alternative Dispute Redressal System in India

1.	Justice R.V. Raveendran, Mediation and Conciliation – Their Importance and Relevance , Anomalies in Law & Justice, EBC Publication, 1 st Edition (2021)	1005
2.	Mediation Training Manual of India , Mediation and Conciliation Project Committee, Supreme Court of India	1041
3.	Anand Kumar Singh, Arbitrability of Disputes in India: The Changing Landscape of 'Exclusive Jurisdiction' Discourse , 7.1 NLUJ LR (2020) 70	1124

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(Judgments mentioned below include citations and short notes for reference. Please refer full judgment (available in pen drive) for conclusive opinion)

1. **Essar House (P) Ltd. v. Arcelor Mittal Nippon Steel India Ltd.**, 2022 SCC OnLine SC 1219 [The Supreme Court observed that a court exercising power under Section 9 of the Arbitration and Conciliation Act is not strictly bound by provisions of CPC and should not withhold relief on mere technicality. The Court ruled that proof of actual attempts to deal with, remove or dispose of the property with a view to defeat or delay the realisation of an impending Arbitral Award is not imperative for grant of relief under Section 9, and that a strong possibility of diminution of assets would suffice]

2. **National Highways Authority of India v. P. Nagaraju**, 2022 SCC OnLine SC 864 [*The Supreme Court observed that, under Section 34 or 37 of Arbitration and Conciliation Act, a Court cannot modify the award passed by the Arbitrator. The option would be to set aside the award and remand the matter.*]
3. **Indian Oil Corpn. Ltd. v. NCC Ltd.**, 2022 SCC OnLine SC 896 [*Despite the insertion of Section 11(6A) in the Arbitration and Conciliation Act 1996, the Courts are not denuded of the power to examine the issue of non-arbitrability and jurisdiction at the stage of considering application of appointment of arbitrators under Section 11, held the Supreme Court recently. The Supreme Court held that, at the stage of deciding application for appointment of arbitrator, a Court can consider whether the dispute falls within the excepted clause. The Court observed that the question of jurisdiction and non-arbitrability can be considered by a Court at the stage of deciding an application under Section 11 of Arbitration and Conciliation Act if the facts are very clear and glaring.*]
4. **I-Pay Clearing Services (P) Ltd. v. ICICI Bank Ltd.**, (2022) 3 SCC 121 [*The Supreme Court held that a court cannot remit a matter to the arbitrator on an application under Section 34(4) when the arbitrator has not given any findings on an issue. The Court differentiated between ‘reasons’ and ‘finding’ and held that it is only to fill the gaps in the reasoning that the matter would be remitted to the arbitrator. When there are no findings on the given issue, the matter cannot be remitted as that in itself is a ground to set aside the award. It further held that the power under Section 34(4) is discretionary.*]
5. **Mutha Construction v. Strategic Brand Solutions Pvt Ltd SPECIAL LEAVE PETITION (CIVIL) No. 1105 of 2022** [*The Supreme Court held that after setting aside an award, the court can remit the matter to the same arbitrator for a fresh decision, provided that the parties involved mutually agree to the same.*]
6. **State of Chhattisgarh v. SAL Udyog (P) Ltd.**, (2022) 2 SCC 275 [*Held that a party is not barred from raising additional grounds for setting aside an arbitration award under section 37 of the Arbitration and Conciliation Act, 1996, merely because the said ground was not raised before the district court to set aside an arbitration award under S. 34 of the A&C Act.*]
7. **Project Director, National Highways No. 45 E and 220 National Highways Authority of India v. M. Hakeem and Another**, (2021) 9 SCC 1 [*The issue for determination before the Supreme Court was: Whether the power of a Court under Section 34 of the A&C Act, 1996 to “set aside” an award of an arbitrator includes the power to modify such an award? Held: there can be no doubt that given the law laid down by the Supreme Court, Section 34 of the A&C Act, 1996 cannot be held to include within it a power to modify an award. To state that the judicial trend appears to favour an interpretation that would read into Section 34 of the A&C Act, 1996 a power to modify, revise or vary the award would be to ignore the previous law contained in the Arbitration Act, 1940; as also to ignore the fact that the A&C Act, 1996 was enacted based on the UNCITRAL Model Law on International Commercial Arbitration, 1985 which makes it clear that, given the limited judicial interference on extremely limited grounds not dealing with the merits of an award, the “limited remedy” under Section 34 of the A&C Act, 1996 is coterminous with the “limited right”, namely, either to set aside an award or remand the matter under the circumstances mentioned in Section 34 of the A&C Act, 1996.*]
8. **Sanjiv Prakash v. Seema Kukreja And Ors.**, (2021) 9 SCC 732 [*Court held that Section 11 stage cannot enter into a mini trial or elaborate review of the facts and law which would usurp the jurisdiction of the arbitral tribunal*]
9. **Chintels India Ltd. v. Bhayana Builders Pvt. Ltd.**, (2021) SCC OnLine SC 80 [*An order refusing to condone the delay under Section 34(3) of the Arbitration and Conciliation Act, 1996 is appealable under Section 37 of the Act.*]
10. **Vidya Drolia v. Durga Trading Corpn.**, (2021) 2 SCC 1 [*Court authoritatively expounded on the scope of the jurisdiction of a Court, examining and application under Section 8 of the 1996 Act.*]
11. **Delhi Airport Metro Express (P) Ltd. v. DMRC**, (2021) 1 SCC 131 [*There is a disturbing tendency of courts setting aside arbitral awards, after dissecting and reassessing factual aspects of the cases to come to a*

conclusion that the award needs intervention and thereafter, dubbing the award to be vitiated by either perversity or patent illegality, apart from the other grounds available for annulment of the award.]

12. **BCCI v. Kochi Cricket (P) Ltd.**, (2018) 6 SCC 287 [*Arbitration and Conciliation Act, 1996 — Ss. 36 and 34 (before and after amendment of S. 36 in 2015): S. 36 as amended in 2015, applies to pending S. 34 applications even in arbitrations commenced prior to 23-10-2015 i.e. date of coming into force of Amendment Act, 2015, as S. 36 is a procedural provision. Rule of automatic stay of operation of award on filing of S. 34 application, even in absence of an order of stay/imposition of conditions by court as per unamended S. 36, held, is no longer applicable.*]
13. **Ananthesh Bhakta & Ors. vs. Nayana S. Bhakta**, (2017) 5 SCC 185 [*The court has construed section 8(2) providing that the Judicial authorities shall not entertain the application or referring the disputes to arbitration unless the said application is accompanied by the original arbitration agreement or duly certified copy thereof and held that section 8(2) has to be interpreted to mean that the court shall not consider any application filed by the party under section 8(1) unless it is accompanied by the original arbitration agreement or duly certified copy thereof*]
14. **State of M.P. v. Madanlal** (2015) 7 SCC 681 [*The Court held that there can be no compromise between the accused and the rape victim. Further the court iterated that there can be no liberal approach just because there is a compromise or if there is a settlement between the parties.*]
15. **Sundaram Finance Ltd. v. T. Thankam**, (2015) 14 SCC 444 [*There can be no quarrel with the proposition that while considering an application for the parties to a dispute to be referred to arbitration on the ground that it is subject to an arbitration agreement in terms of Section 8(1), the judicial authority exercises the jurisdiction conferred upon it by the Arbitration and Conciliation Act, 1996 and not the jurisdiction it exercises under the law whereunder it has been established*]
16. **Mr. Vikram Bakshi and Ors. v. Ms. Sonika Khosla (Dead) by L.Rs.** (2014) 15 SCC 80 [*The court dealt with role of mediation in a dispute under section 397 and 398 of the Companies Act has been examined*]
17. **K. Srinivas Rao v D.A. Deepa**, (2013) 5 SCC 226 [*The Court emphasizes relevance of mediation in matrimonial disputes including complaints u/s 406/498a IPC. It was observed that purely a civil matrimonial dispute can be amicably settled by directing the parties to explore the possibility of settlement through mediation. The courts have always adopted a positive approach and encouraged settlement of matrimonial disputes and discouraged their escalation.*]
18. **Afcon Infrastructure Ltd. And Anr. v. Cherian Varkey Construction Co. (P) Ltd. And Ors.** 2010 (8) SCC 24 [*the court dealt with the question of whether the court, in the absence of an arbitration agreement between the parties, was competent to refer the parties to arbitration under Section 89 of the Code of Civil Procedure 1908. After an elaborate discussion on the scheme of alternate dispute resolution enshrined within the code, the court held that unless both parties consent to such referral, the courts cannot refer the parties to arbitration under Section 89 of the code.*]
19. **Salem Advocate Bar Association, Tamil Nadu v. Union of India**; 2005 (6) SCC 344 [*The apex court purposively reinterpreted S. 89, CPC to reduce anomalies. For instance, the words shall and may in S. 89, CPC and Rules IA-IC, Order X, CPC were read harmoniously and it was determined that may was intended to refer to only the reformulation of terms of a potential settlement by the court. There was also an attempt to resolve the issue created by inclusion of the phrase "terms of settlement" in the section. The section mandates formulation of settlement at the pleadings stages. However, this is not feasible since, firstly, there would not have been adequate application of mind of the judge at the pleadings stage, and, secondly, determining terms of settlement is the domain of the ADR forum. So, a plain reading of the section creates the futile situation wherein courts are expected to do the ADR forums job before referring a matter to it. In light of the above,*

"terms of settlement" was interpreted as summary of disputes. The court further replaced the definition of mediation in the section with that suggested in the model mediation rules.]

Session 9: Criminal Justice Administration: Fair Trials and Human Rights

1.	Maja Daruwala Ed., <i>Fair Trial Manual: A Handbook for Judges and Magistrates</i> , The Commonwealth Human Rights Initiative and the International Human Rights Clinic, Cornell Law School 2019 Second Edition	1144
2.	Soli J. Sorabjee, <i>Creative Role of Indian Judiciary in Enlarging and Protecting Human Rights</i> , Journal of National Human Rights Commission India, vol. 17 p.21-29 (2018)	1169
3.	S.N. Jain, <i>Human Rights and Administration of Criminal Justice</i> , ILI. N. M. Tripathi Pvt. Ltd, 97-112	1178
4.	P.N. Bhagwati, <i>Human Rights in the Criminal Justice System</i> , Journal of the Indian Law Institute, 27(1), 1-22 (1985)	1194

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(Judgments mentioned below include citations and short notes for reference. Please refer full judgment (available in pen drive) for conclusive opinion)

1. **Mohammed Zubair v. State of NCT of Delhi**, [2022 SCC OnLine SC 897](#) [The 6 FIRs filed in Ghaziabad, Chandauli, Lakhimpur, Sitapur, Hathras have also been transferred from the Uttar Pradesh Police to the Special Cell of the Delhi Police, thereby disbanding the SIT formed by the Director General of Police, Uttar Pradesh on 10 July 2022. If any other related FIR is filed against Zubair then the same will also be transferred to the Special Cell of the Delhi Police and Zubair shall be entitled to the order of interim bail.]
2. **Kanchan Kumari v. State of Bihar and Another** 2022 SCC OnLine SC 981 [Section 138 - Anticipatory Bail - Adverse order against third party by High Court in an anticipatory bail proceedings - It is a peremptory direction affecting a third party. The adverse impact of the direction goes to the very livelihood of the appellant. It has also civil consequences for the appellant. Such a peremptory direction and that too, without even issuing any notice to the appellant was clearly unjustified.]
3. **Jameel Ahmad v. Mohammed Umair Mohammad Haroon & anr.** Criminal Appeal No. 230 of 2022 [Grant of bail, though a discretionary order, requires such discretion to be exercised in a judicious manner and on the application of certain settled parameters. The more heinous the crime, the greater the chance of rejection of bail, though the exercise also depends on the factual matrix of the matter]
4. **Rajesh Seth v. The State of Chhattisgarh** Special Leave to Appeal (Crl.) No(s).1247/2022; 21-02-2022 [Indefinite adjournment in a matter relating to anticipatory bail, that too after admitting it, is detrimental to the valuable right of a person - When a person is before the Court and that too in a matter involving personal liberty, least what is expected is for such a person to be given the result one way or the other, based on the merit of his case and not push him to a position of uncertainty or be condemned without being heard, when it matters.]
5. **Satender Kumar Antil v. C.B.I**, 2022 SCC Online SC 825 [**'India needs a Bail Act': Supreme Court asks Centre to consider the suggestion; Grant of bail — Exercise of discretion by court — Guidelines issued therefore based on categorisation of offences made herein: Offences have been categorised and the guidelines have been issued for grant of bail, but without fettering the discretion of the courts concerned and**

keeping in mind the statutory provisions. Further held, where the accused have not cooperated in the investigation nor appeared before the investigating officers, nor answered summons when the court feels that judicial custody of the accused is necessary for the completion of the trial, where further investigation including a possible recovery is needed, the benefit of the above guidelines cannot be given to such accused. Lastly, held, it is not as if economic offences not covered by Special Acts, are completely taken out of the aforesaid guidelines but do form a different nature of offences. Thus the seriousness of the charge has to be taken into account but simultaneously, the severity of the punishment imposed by the statute would also be a factor.]

6. **Manoj Kumar Khokhar v. State of Rajasthan** (2022) 3 SCC 501 [Cryptic and casual bail orders without relevant reasons liable to be set aside; “cessante razione legis cessat ipsa lex” invoked to hold that “**reason is the soul of the law, and when the reason of any particular law ceases, so does the law itself**”]
7. **Sunil Kumar v. State of Bihar**, (2022) 3 SCC 245 [**Bail**: Principles summarized regarding considerations to be balanced while deciding to grant bail.]
8. **Deepak Yadav v. State of U.P. and Another**, 2022 SCC OnLine SC 672 [It is no doubt true that cancellation of bail cannot be limited to the occurrence of supervening circumstances. This Court certainly has the inherent powers and discretion to cancel the bail of an accused even in the absence of supervening circumstances. Following are the illustrative circumstances where the bail can be cancelled :- **a)** Where the court granting bail takes into account irrelevant material of substantial nature and not trivial nature while ignoring relevant material on record. **b)** Where the court granting bail overlooks the influential position of the accused in comparison to the victim of abuse or the witnesses especially when there is prima facie misuse of position and power over the victim. **c)** Where the past criminal record and conduct of the accused is completely ignored while granting bail. **d)** Where bail has been granted on untenable grounds. **e)** Where serious discrepancies are found in the order granting bail thereby causing prejudice to justice. **f)** Where the grant of bail was not appropriate in the first place given the very serious nature of the charges against the accused which disentitles him for bail and thus cannot be justified. **g)** When the order granting bail is apparently whimsical, capricious and perverse in the facts of the given case.]
9. **Devendra Kumar Saxena v. Central Bureau of Investigation and Ors.** AIR 2021 SC 2006 [Criminal - Transfer Petition - Transfer sought on health grounds - Petition opposed on the ground of trial already under way - Whether transfer can be granted?]
10. **Manjeet Singh v. State of Haryana and Ors.** AIR 2021 SC 4274 [the court has held that to summon the person who is not charge sheeted, the effort is that the real perpetrator of the offence is punished which is part and parcel of the principle of fair trial and this empowerment of the court is essential to ensure the proper working of the criminal administration of justice.]
11. **Sartaj Singh v. State of Haryana and Ors.** (2021) 5 SCC 337 [Object and purpose of S. 319: Principles reiterated regarding scope and ambit of powers of Magistrate under S. 319 and when additional accused may be added and “evidence” on basis of which may be added.]
12. **Shantaben Bhurabhai Bhuriya v. Anand Athabhai Chaudhari and Ors.** AIR 2021 SC 5368 [the Apex Court has taken a clear stand that criminal proceedings under SC-ST (Prevention of Atrocities) Act is not vitiated merely because the Magistrate had taken cognizance and committed the case to Special Court.]
13. **Ajay Kumar Pandey. v. State of U.P. & Ors** 2021 SCC OnLine All 77 [A fair trial includes fair investigation as reflected from Articles 20 and 21 of the Constitution of India. If the investigation is neither effective nor purposeful nor objective nor fair, the courts may if considered necessary, may order a fair investigation, further investigation or reinvestigation as the case may be to discover the truth so as to prevent miscarriage of justice.]
14. **CD Pharma India Private Limited v. State of NCT of Delhi & Ors** [W.P. (CRL) 999/2020 & CrI. M.A. No. 8526/2020 [The power to order reinvestigation or transfer of investigation needs to be exercised judiciously]

and not at the mere asking. It can be ordered only if the conscience of the Court is shaken to the standard of investigation.]

15. **Mahender Chawla and Others v. Union of India** (2019) 14 SCC 615 [*The Court held that one of the main reasons for witnesses changing their stance can be the lack of proper protection given by the state, hence a threat to life. Such witnesses are known as hostile witnesses.]*
16. **Dinubhai Boghabhai Solanki v. State of Gujarat and Ors.** (2018) 11 SCC 129 [*De novo retrial - Validity thereof - Sections 302 and 114 of Indian Penal Code, 1860 (IPC); Section 25(1) of Arms Act, 1959 - Present appeal filed challenging order whereby High Court directed de novo trial of case - Whether High Court justified passing de novo trial of case]*
17. **Mohan Lal v. State of Punjab** AIR 2018 SC 3853 [*The Supreme Court held that the possibility of real likelihood of bias existing on part of that police officer could not be excluded, and the right to fair investigations demanded that these be conducted in an impartial and unbiased manner.]*
18. **Asha Ranjan and another v. State of Bihar and others** AIR 2017 SC 1079 [*that an individual's choice is very complicatedly linked to dignity because dignity cannot be thought of in the absence of choice. The concept of 'class honour' or 'group thinking' is unlikely to surrender to such a right of choice.]*
19. **Balakram v. State of Uttarakhand and others** (2017) 7 SCC 668 [**Right of accused to cross-examine police officer with reference to entries in police diary]**
20. **Naresh Kumar alias Nitu v. State of Himachal Pradesh** 2017 Indlaw SC 508 [*The presumptive provision with reverse burden of proof, does not sanction conviction on basis of preponderance of probability. Section 35(2) provides that a fact can be said to have been proved if it is established beyond reasonable doubt and not on preponderance of probability. ”]*
21. **Ajay Singh v. State of Chhattisgarh** (2017) 3 SCC 330 [*The CrPC does not define the term “judgment”, yet it has clearly laid down how the judgment is to be pronounced. The provisions clearly spell out that it is imperative on the part of the learned trial judge to pronounce the judgment in open court by delivering the whole of the judgment or by reading out the whole of the judgment or by reading out the operative part of the judgment and explaining the substance of the judgment in a language which is understood by the accused or his pleader. Further, the trial judge may not read the whole of the judgment and may read operative part of the judgment but it does not in any way suggest that the result of the case will be announced and the judgment would not be available on record.]*
22. **State of Bihar v. Rajballav Prasad @ Rajballav Pd. Yadav @ Rajballabh Yadav** (2017) 2 SCC 178 [*Respondent preferred another bail petition before High Court - High Court directed release of Respondent on bail - Certain conditions were also imposed while granting bail - Hence, present appeal by State - Whether High Court should not have granted bail to Respondent]*
23. **Amrutbhai Shambhubhai Patel vs. Sumanbhai Kantibhai Patel and others** AIR 2017 SC 774 [*It was held that after a report is submitted by the police on completion of the investigation, the Magistrate, in both the contingencies, namely; when he takes cognizance of the offence or discharges the accused, would be committed to a course, whereafter though the investigating agency may for good reasons inform him and seek his permission to conduct further investigation, he suo motu cannot embark upon such a step or take that initiative on the request or prayer made by the complainant/informant.]*
24. **Pooja Pal v. Union of India and others** (2016) 3 SCC 135 [*Court observed that in a criminal case, fate of the proceedings cannot be left in the hands of the parties, crimes being public wrongs in breach and violation of public rights and duties, which affect the whole community and are harmful to the society.]*

25. *State of Haryana v. Ram Mehar and others* (2016) 8 SCC 762 [Arithmetical approach in allowing recall of witness can be dangerous]
26. *State (NCT of Delhi) v. Shiv Kumar Yadav* (2016) 2 SCC 402 [Mere observation that recall was necessary “for ensuring fair of trial” is not enough unless there are tangible reasons to show how fairness of trial suffered without recall.]
27. *Bablu Kumar v. State of Bihar* (2015) 8 SCC 787 [For fair proceedings, the courts have to be proactive and see that no one It is the duty of the court to see that one party does not make the case ridiculous, that the summons issued to the witnesses of the prosecution are actually served to them.]
28. *Vinod Kumar v. State of Punjab* (2015) 3 SCC 220 [Held, trap witness was interested witness and his testimony, to be accepted and relied upon required corroboration and corroboration would depend upon facts and circumstances, nature of crime and character of trap witness - Nothing had been put to Prosecution Witness, who was member of raiding party, to elicit that he was anyway personally interested to get Appellant convicted - It was not case that there was no other evidence barring evidence of Complainant - On contrary there were adequate circumstances which established ingredients of offences in respect of which Appellant was charged - Further, evidence of Prosecution Witnesses got corroboration from each other - No infirmity in impugned order - Appeal dismissed.]
29. *State of Himachal Pradesh v. Raj Kumar* (2014) 14 SCC 39 [Chain of circumstances was not so complete as not to leave any reasonable ground for conclusion consistent with innocence of Respondent - High Court had, therefore, rightly set aside conviction and acquitted Respondent - Appeal dismissed.]
30. *State of Gujarat v. Kishanbhai* (2014) 5 SCC 108 [Lapses committed by investigating and prosecuting agencies, stringently deprecated and directions issued for purposeful and decisive investigation and prosecution in the matter.]
31. *Ashok Debarma @ Achak Debarma v. State of Tripura* (2014) 4 SCC 747 [the concept of residual doubt was considered]
32. *Hardeep Singh v. State of Punjab* (2014) 3 SCC 92 [Power under Section 319 Cr.P.C. is a discretionary and an extraordinary power. It is to be exercised sparingly and only in those cases where the circumstances of the case so warrant. It is not to be exercised because the Magistrate or the Sessions Judge is of the opinion that some other person may also be guilty of committing that offence. Only where strong and cogent evidence occurs against a person from the evidence led before the court that such power should be exercised and not in a casual and cavalier manner]
33. *Sarah Mathew v. Institute of Cardio Vascular Diseases* (2014) 2 SCC 62 [It was held that “Magistrate takes cognizance when he applies his mind or takes judicial notice of an offence with a view to initiating proceeding. Further, the petition to condone the delay should be filed at the time of giving the complaint itself”, thus, observed that the date of filing the complaint is material for filing a petition under Section [473 CrPC.](#)]
34. *Dharam Pal v. State of Haryana* (2014) 3 SCC 306 [The Magistrate has to apply his mind to a final report/charge-sheet or challan and proceed with the matter as per the provisions stipulated in the Code.
35. *K. V. Rajendra v. Superintendent of Police, Chennai & Ors*, (2013) 12 SCC 480 [Where the investigation is complete & charge-sheet filed, ordinarily superior courts should not reopen the investigation and it be left open to the court to proceed with the matter in accordance with law.]
36. *Mohammed Ajmal Mohammad Amir Kasab v. State of Maharashtra* AIR 2012 SC 3565 [This Fundamental Right is implicit in the requirement of reasonable, fair and just procedure prescribed by Article 21. The magistrate is duty bound to inform the accused of his right to consult a lawyer of choice and in case the accused is unable to afford the services of such a lawyer, to provide him/her a legal practitioner at State expense. The Supreme Court has directed all magistrates in the country to faithfully discharge the aforesaid

obligation and opined that any failure to fully discharge this duty would amount to dereliction in duty and would make the concerned magistrate liable to departmental proceedings. The guiding principle is that no accused must go unrepresented and he/she must be allowed access to a lawyer or provided with a lawyer from the time he/she comes into contact with the criminal justice system. The failure to provide a lawyer to the accused at the pretrial stage may not have the consequence of vitiating the trial. It may have other consequences like making the delinquent magistrate liable to disciplinary proceedings, or giving the accused a right to claim compensation against the State for failing to provide him/her with legal aid. But it would not vitiate the trial unless it is shown that failure to provide legal assistance at the pretrial stage had resulted in some material prejudice to the accused in the course of the trial.]

37. **State of U.P. v. Naresh and Ors** (2011) 4 SCC 324 [*The Supreme Court observed “every accused is assumed to be innocent unless his guilt is proved. The presumption of innocence is a human right subject to the statutory exceptions.”*]
38. **Himanshu Singh Sabharwal v. State of M.P.**, AIR 2008 SC 1943 [*If the fair trial envisaged under the Code is not imparted to the parties and court has reasons to believe that prosecuting agency or prosecutor is not acting in the requisite manner the court exercise its power under Section 311 of the Criminal Procedure Code or under Section 165 of the Indian Evidence Act, 1872 to call in for the material witness and procure the relevant documents so sub serve the cause of justice.*]
39. **Sakiri Vasu v. State of U.P. & Ors** (2008) 2 SCC 409 [*The Supreme Court made important observations regarding the role of the magistrate during an investigation. It was held that a magistrate can pass directions to ensure that a “proper investigation” is made, and that magistrates had “all such powers which are necessary to ensure that a proper investigation is made” which include “monitoring” an investigation.*]
40. **Zahira Habibullah Sheikh and Ors. v. State of Gujarat and Ors** (2006) 3 SCC 374 [*The Supreme Court of India observed “each one has an inbuilt right to be dealt with fairly in a criminal trial. Denial of a fair trial is as much injustice to the accused as it is to the victim and to society. Fair trial means a trial in which bias or prejudice for or against the accused, the witness or the cause which is being tried, is eliminated.*]
41. **D.K. Basu v. State of West Bengal** (1997) 1 SCC 416 [*The Supreme Court laid down the guidelines which must be followed by every police officer conducting arrest.*]
42. **Nilabati Behera v. State of Odisha** (1993) 2 SCC 746 [*The precious right guaranteed by Article 21 of the Constitution of India cannot be denied to convicts, under trials, or other prisoners in custody, except according to procedure established by law. There is a great responsibility on the police or prison authorities to ensure that the citizen in its custody is not deprived of his right to life. The Supreme Court affirmed that Article 32 empowers courts to grant compensation for deprivation of a fundamental right. The Court explained that without this power to render compensation, the Court’s role as a protector of constitutional rights is merely a mirage, and might even create an incentive to torture in certain circumstances.*]
43. **Shyam Singh v. State of Rajasthan** 1973 Cri. LJ 441, 443 (Raj) [*For ensuring fair trial, it has to be checked whether there exists a circumstance according to which a litigant could reasonably apprehend that a bias attributable to a judicial officer must have operated against him in the final decision of the case and not that if a bias could have affected the judgment.*]
44. **Khatri v. State of Bihar** (1981) 2 SCC 493 [*The court held that the accused is entitled to free legal services not only at the stage of trial but also when first produced before the Magistrate and also when remanded.*]
45. **Hussainara Khatoon & Ors vs Home Secretary, State Of Bihar**, 1979 AIR 1369 [*Gave broader meaning to Article 21 and stated that everyone has the right to a prompt trial. It is the most well-known case involving the human rights of Indian inmates.*]

Session 10: Principles of Evidence: Appreciation in Civil and Criminal Cases		
1.	Dr. Justice B. S. Chauhan, <i>Appreciation of Evidence</i> , Unpublished, prepared for NJA programme, 19.10.22.	1216
2.	<i>Conclusions and Recommendation</i> , 271 st Law Commission of India Report on Human DNA Profiling – A Draft Bill for the Use and Regulation of DNA Based Technology 40-44 Law Commission of India (2017).	1235
3.	S.S. Upadhyay, <i>Appreciation of Evidence in Criminal Trials (for Magistrates)</i> , Available at: https://lawhelpline.in/pdfs/appreciation of evidence in criminal trials.pdf	1326
4.	S.S. Upadhyay, <i>Appreciation of Evidence in Civil Cases</i> , Available at: http://lawhelpline.in/PDFs/CIIL_LAWS/APPRECIATION_OF_EVIDENCE_IN_CIVIL_CASE S.pdf	1424
5.	Subhash Chandra Singh, <i>DNA Profiling and the Forensic use of DNA Evidence in Criminal Proceedings</i> , Journal of the Indian Law Institute , APRIL-JUNE 2011, Vol. 53	1464
6.	DNA Technology (Use and Application) Regulation Bill, 2019	1496
CASE LAW <i>(Judgments mentioned below include citations and short notes for reference. Please refer full judgment (available in pen drive) for conclusive opinion)</i>		
1.	<i>Khushi Ram v. Nawal Singh</i> , 2021 SCC OnLine SC 128 [A compromise decree passed by a court in respect of immovable property which is subject matter of the suit would ordinarily be covered by Section 17(1)(b) of the Registration Act and would not require registration. But if the compromise is entered into in respect of an immovable property other than the subject- matter of the suit or proceeding would be covered under Section 17 (2) (vi) of the Registration Act and the same would require registration.]	
2.	<i>Iqbal Basith v. N. Subbalakshmi</i> , (2021) 2 SCC 718 [Adverse presumption u/s 114(g) of the Evidence Act can be drawn against the defendant if he does not present himself for cross-examination and refuses to enter witness box in order to refute the allegations made against him or support his pleadings in his written statement. <i>Where in suit for permanent injunction, plaintiff had proved his possessory title over the suit property, though not the full title, and the defendant had failed to prove any title to the suit property, it has been held by the Supreme Court that the plaintiff's suit deserved to be decreed against the interference of the defendant with the plaintiff's possession over the suit property]</i>	
3.	<i>Rattan Singh v. Nirmal Gill</i> , 2020 SCC OnLine SC 936 [The standard of proof required in a civil dispute is preponderance of probabilities and not beyond reasonable doubt. The court held that for invoking Section 17 of the Limitation Act, 1963, two ingredients i.e. existence of a fraud and discovery of such fraud, have to be pleaded and duly proved and that in case of failure to establish the existence of fraud, there is no occasion for its discovery. <i>Opinion of an expert is not binding piece of evidence if not corroborated by other pieces of evidence.]</i>	
4.	<i>Ratnagiri Nagar Parishad v.. Gangaram Narayan Ambekar</i> , (2020) 7 SCC 275 [<i>Specific Relief Act, 1963 — Ss. 34, 35, 38, 39 and 41 — Declaratory relief with suit for injunction simpliciter — When necessary: Where bare injunction suit has been filed to restrain State Authorities from acting in a particular manner without seeking declaratory relief as to illegality of orders/actions of State Authorities based on which State Authorities were</i>	

seeking to act, said bare injunction suit was not maintainable, as no government order can be ignored altogether unless a finding is recorded that it was illegal, void or not in consonance with law.]

5. **Sugandhi v. P.Rajkumar**, (2020) 10 SCC 706 [*Where the documents were missing and could not be filed by the defendant at the time of filing of his written statement and were sought to be produced at the time of final hearing, explaining the provisions of Order 8, rule 1A (3) and Order 13, rule 1 CPC, it has been held by the Supreme Court that as the defendant had shown cogent reasons for not filing the said documents along with his written statement and the documents were necessary for arriving at just decision in the suit, permission to produce the documents should have been granted.*]
6. **Bhagwat Sharan v. Purushottam**, (2020) 6 SCC 387 [*Admission of a party is only a piece of evidence and not conclusive of the fact admitted. Where there is no clear-cut admission as to the fact concerned, it would be of no consequence*]
7. **Jagmail Singh v. Karamjit Singh**, (2020) 5 SCC 178 [*Exhibited documents and their admissibility in evidence. Factual foundational evidence must be adduced showing reasons for not furnishing evidence. Mere admission in evidence and making exhibit of a document not enough as the same has to be proved in accordance with law*]
8. **Nand Ram v. Jagdish Prasad**, (2020) 9 SCC 393 [*Document brought on record but not proved cannot be read in evidence.*]
9. **C. Doddanarayana Reddy v. C. Jayarama Reddy**, (2020) 4 SCC 659 [*Authenticity of entries of public document like school register or T.C. may be tested by court*]
10. **Ravinder Kumar Grewal v. Manjit Kaur**, (2020) 9 SCC 706 [*A memorandum of family settlement or family arrangement requires compulsory registration as per Section 17 (2) (v) of the Registration Act, 1908 only when it creates or extinguishes for the first time any right, title or interest in an immovable property among the family members. If it records only pre-existing right in the immovable property or arrangement or terms already settled between the parties in respect of the immovable property, it does not require registration*]
11. **Mohd. Yusuf v. Rajkumar**, (2020) 10 SCC 264 [*Compromise decree comprising immovable property which is the subject-matter of the suit or proceeding in question, held, does not require registration. It is only a compromise decree comprising immovable property other than that which is the subject-matter of suit or proceeding in question, which requires registration*]
12. **Kamal Kumar v. Premlata Joshi**, (2019) 3 SCC 704 [*Whether the plaintiff is entitled for grant of any other alternative relief, namely, refund of the earnest money etc. and, if so, on what grounds. To avail relief of specific performance, parties are required to plead and prove all statutory requirements prescribed under the provisions of Sections 16(c), 20, 21, 22 & 23 of the Specific Relief Act, 1963 and Forms 47 & 48 of Appendix A to C of the CPC*]
13. **Vimla Devi v. National Insurance Company Limited**, (2019) 2 SCC 186 [*Non-exhibition of documents is only a procedural lapse. Non-exhibition of documents cannot disentitle a claim when otherwise sufficient evidence is adduced and the documents established the fact in controversy.*]
14. **Yashwant Sinha v. Central Bureau of Investigation**, (2019) 6 SCC 1 [*Secret documents relating to Rafale fighter jets were removed/stolen from the custody of the Ministry of Defence, Govt. of India and their photocopies were produced before the Supreme Court. The objection raised before the Supreme Court by the Central Govt. was that the secret stolen documents were not admissible in evidence. The Supreme Court held that all the documents in question were admittedly published in newspapers and thus already available in public domain. No law specifically prohibits placing of such secret documents before the Court of law to adjudicate legal issues. Matter involved complaint against commission of grave wrong in the highest echelons of power. Review petition could be adjudicated on merits by taking into account the relevance of the documents.*]

Section 123 of the Evidence Act relates to the affairs of the State. Claim of immunity u/s 123 has to be adjudged on the touchstone that the public interest is not put to jeopardy by requesting disclosure of any secret document.

Documents in question (stolen papers of the Rafale fighter jets from the Ministry of Defence, Govt. of India) being in public domain were already within the reach and knowledge of the citizens. The Supreme Court held that the claim of immunity u/s 123 of the Evidence Act raised by the Central Govt. was not tenable and the documents in question were admissible as evidence.]

15. **Smt. Bhimabai Mahadeo Kambekar v. Arthur Import and Export Company**, (2019) 3 SCC 191 [*Revenue record is not a document of title. It merely raises a presumption of possession u/s 110 of the Evidence Act.*]
16. **Municipal Corporation, Gwalior v. Puran Singh**, (2015) 5 SCC 725 [*Khasra entries are not proof of title and ownership of land.*]
17. **Union of India v. Vasavi Co-operative Housing Society Limited**, (2014) 2 SCC 269. [*Held, in a suit for declaration of title and for possession, burden always lies on the plaintiff to make out and establish his case by adducing sufficient evidence and the weakness, if any, of the case set up by the defendants would not be a ground to grant relief to plaintiff. In the instant case, trial court as well as High Court rather than examining in depth, the question, as to whether the plaintiffs have succeeded in establishing their title to the suit land, went on to examine in depth the weakness of defendants' title. Plaintiffs have not succeeded in establishing their title and possession of the suit land. Judgment of trial court, affirmed by High Court, is set aside.*]
18. **Ayaubkhan Noorkhan Pathan v. State of Maharashtra**, (2013) 4 SCC 465 [*In view of the amended provisions of Order 19, rule 1-A CPC w.e.f. 10.2.1981, evidence on affidavit can be received by court where the case has proceeded ex-parte. In such cases the court may permit the plaintiff to adduce his evidence on affidavit.*]
19. **K.K. Velusamy v. N. Palanisamy**, (2011) 11 SCC 275 [*The court examined the power of the courts with regard to re-opening the evidence and recalling witnesses. The court while examining the relevant provisions of the Code of Civil Procedure, 1908 has culled out the principles for invoking the inherent powers of the court.*]
20. **Kapil Core Packs Pvt. Ltd v.. Harvansh Lal**, (2010) 8 SCC 452 [*According to Rule 54 of the General Rules (Civil), when a certified copy of any private document is produced in Court, inquiry shall be made from the opposite party whether he admits that it is a true and correct copy of the document which he denies, or whether it is a true and correct copy of the document the genuineness of which he admits without admitting the truth of its contents, or whether he denies the correctness of the copy as well as of the document itself. Admission of the genuineness of a document is not to be confused with the admission of the truth of its contents or with the admission that such document is relevant or sufficient to prove any alleged fact.*]
21. **LIC of India v.. Ram Pal Singh Bisen**, (2010) 4 SCC 491 [*Mere admission of a document in evidence does not amount to its proof. In other words, mere marking of exhibit on a document does not dispense with its proof which is required to be done in accordance with law.*]
22. **Manager, Reserve Bank of India, Bangalore v. S. Mani**, (2005) 5 SCC 100 [*Non-denial of or non-response to a plea that is not supported by evidence cannot be deemed to be admitted by applying the doctrine of non-traverse. The Evidence Act does not say to the contrary. Pleadings are not substitute for proof.*]
23. **Darbara Singh v. State of Punjab**, 2012 (10) SCC 476 [*held that so far as the question of inconsistency between the medical evidence and the ocular evidence is concerned, the law is well settled that, unless the oral evidence available is totally irreconcilable with the medical evidence, the oral evidence would have primacy. In the event of contradictions between medical and ocular evidence, the ocular testimony of a witness will have greater evidentiary value vis-à-vis medical evidence and when medical evidence makes the oral testimony improbable, the same becomes a relevant factor in the process of evaluation of such evidence. It is only when the contradiction between the two is so extreme that the medical evidence completely rules out all possibilities of the ocular evidence being true at all, that the ocular evidence is liable to be disbelieved.*]
24. **State of Himachal Pradesh v. Raj Kumar**, (2018) 2 SCC 69 [*The court while allowing the appeal held: (i) In his evidence, son of deceased stated that he was threatened by the Accused to make telephonic call to his maternal uncle that deceased person had run away from the house and under such threat the son informed accordingly.*]

The deceased person was living with her brother-in-law/accused along with her children. If deceased person was so missing, the natural conduct of the Accused was to inform the police. But that was not done. Burden is cast upon the accused, being the inmate of the house to give a cogent explanation as to how deceased person died. No reasonable explanation was forthcoming from the Accused as to why he had neither lodged the complaint nor informed the police about the missing of deceased person. The Respondent-Accused being inmate of the house cannot get away by simply keeping quiet and offering no explanation. This was a strong militating circumstance against the Respondent indicating that he might be responsible for the commission of the offence. The motive attributed to the Accused was that he had frequently quarreled with the deceased and also assaulted her. A dispute was also suggested pertaining to the land of one Swami who wanted to give his property solely to the deceased which was not acceptable to the accused.

(ii) The High Court was not right in doubting the version of deceased's son on the ground that he made improvements in his version. His evidence could not be doubted simply because names of Ramesh Kumar and Om Prakash were not mentioned in his statement. Deceased's son was already threatened by Accused Om Parkash to inform his maternal uncle that deceased had run away. When deceased's son statement was recorded, he must have been in trauma and fear psychosis. In such circumstances, omission to mention the names of Om Parkash and Ramesh Kumar in his statement does not render his evidence untrustworthy.]

25. **State of Andhra Pradesh v. Pullagummi Kasi Reddy Krishna Reddy @ Rama Krishna Reddy and others**, (2018) 7 SCC 623 [**Murder trial:** *In this case due to rivalry between two factions in village led to attack using country-made bombs, hunting sickles and iron pipes and there was death of four persons but all respondent-accused were acquitted by High Court. It was held by the Supreme Court that the High Court erred in eschewing testimonies of witnesses in toto. Minor contradictions and omissions in evidence of witnesses were to be ignored. All eyewitnesses including one who turned hostile consistently spoke about attack on one deceased and his supporters. Witness who gave vivid description of incident was corroborated by other witnesses. However, on oral evidence of witnesses and medical evidence, High Court rightly acquitted some respondents giving them benefit of doubt but acquittal of other respondents by High Court, set aside, convicting them under S. 302 IPC and sentencing them to undergo life imprisonment.]*
26. **Krishnegowda v. State of Karnataka**, (2017) 13 SCC 98 [*It is settled law that mere laches on the part of Investigating Officer itself cannot be a ground for acquitting the accused. If that is the basis, then every criminal case will depend upon the will and design of the Investigating Officer. The Courts have to independently deal with the case and should arrive at a just conclusion beyond reasonable doubt basing on the evidence on record. Once there is a clear contradiction between the medical and the ocular evidence coupled with severe contradictions in the oral evidence, clear laches in investigation, then the benefit of doubt has to go to the accused. The finding of the High Court that the ocular evidence and the medical evidence are in conformity with the case of prosecution to convict the accused, was incorrect. The High Court brushed aside the vital defects involved in the prosecution case and in a very unconventional way convicted the Accused. The judgment of the High Court was set aside and the order of acquittal passed by the Trial Court was re-affirmed.]*
27. **Bhagwan Jagannath Markad v. State of Maharashtra**, (2016) 10 SCC 537 [*Burden of proof is always on prosecution and accused is presumed to be innocent unless proved guilty. Prosecution has to prove its case beyond reasonable doubt and accused is entitled to benefit of reasonable doubt. The reasonable doubt is one which occurs to a prudent and reasonable man. S. 3, Evidence Act, refers to two situations in which a fact is said to be proved: (i) when a person feels absolutely certain of a fact i.e. "believes it to exist", and (ii) when he is not absolutely certain and thinks it so extremely probable that a prudent man would, under the circumstances, act on the assumption of its existence. The doubt which the law contemplates is not of a confused mind but of prudent man who is assumed to possess the capacity to separate the chaff from the grain. The degree of proof need not reach certainty but must carry a high degree of probability.]*
28. **Pawan Kumar v. State of Uttar Pradesh**, (2015) 7 SCC 148 [*Criminal - Conviction - Circumstantial evidence - Sections 149 and 302 of Indian Penal Code, 1860 - Present appeal filed against order whereby Appellants were*

convicted for offence punishable under Sections 149 and 302 of Code - Whether prosecution had established beyond reasonable doubt complete chain of events which pointed at guilt of accused - Held, Accused Nos. 4 & 7 disclosed names of their co-accused at whose instance various incriminating materials including pistols, cartridges, bullets, blood stained articles were recovered - Confession given by accused was not basis for courts below to convict accused, but it was only source of information to put criminal law into motion - Hence, accused could not take shelter under Section 25 of Evidence Act - Motive behind brutal murder of deceased as brought forward by prosecution was trustworthy in light of material available on record - Merely because all bullets fired from gun did not hit target and were not recovered from scene of offence, was no ground to conclude that incident did not take place - Nexus between accused as well as their participation in crime is well established beyond reasonable doubt and nothing on record to suggest that accused were unnecessarily implicated by police - Entire evidence brought on record by prosecution, was not only convincing, but was also trustworthy - Prosecution had established beyond reasonable doubt complete chain of events which points at guilt of accused - Therefore, impugned order of conviction was sustainable and required no interference - Appeal dismissed]

29. ***Sudha Renukaiah v. State of Andhra Pradesh***, (2017) 13 SCC 81 [*Held, while allowing the appeal: (i) The fact that weapon was not shown to the Doctor nor in the cross-examination attention of the Doctor was invited towards the weapon, was not of much consequence in the facts of the present case where there was clear medical evidence that injuries could be caused by knife, axe and battle axe. When there are eye-witnesses including injured witness who fully support the prosecution case and proved the roles of different accused, prosecution case cannot be negated only on the ground that it was a case of group rivalry.*
- (ii) Present was a case where the High Court exercised its appellate power Under Section 386 Code of Criminal Procedure In exercise of Appellate power Under Section 386 Code of Criminal Procedure the High Court has full power to reverse an order of acquittal and if the Accused are found guilty they can be sentenced according to law. Present was a case where reasoning of the Trial Court in discarding the evidence of injured witness and other eye-witnesses were found perverse. The High Court did not commit any error in reversing the order of acquittal and convicted the accused. From the eye-witnesses account and for the reasons given by the High Court in its judgment, the High Court was correct in setting aside the order of acquittal and convicting the Accused.*
30. ***Mukesh v. State (NCT of Delhi)***, (2017) 6 SCC 1 (Nirbhaya Case) [*The Court concluded that the evidence of the informant was unimpeachable and it deserved to be relied upon. The Accused persons alongwith the juvenile in conflict with law were present in the bus when the prosecutrix and her friend got into the bus. There was no reason to disregard the CCTV footage, establishing the description and movement of the bus. The arrest of the Accused persons from various places at different times was proved by the prosecution. The personal search, recoveries and the disclosure leading to recovery were in consonance with law and the assail of the same on the counts of custodial confession made under torture and other pleas were highly specious pleas and they did not remotely create a dent in the said aspects. That apart, the dying declaration by gestures was proved beyond reasonable doubt. There was no justification to think that the informant and the deceased would falsely implicate the Accused and leave the real culprits. The dying declarations made by the deceased received corroboration from the oral and documentary evidence and also enormously from the medical evidence.]*
31. ***Mallikarjun v. State of Karnataka***, (2019) 8 SCC 359 [*S. 372 proviso introduced w.e.f. 31-12-2009] and Ss. 2(wa), 2(d) and 378 — Right of victims to appeal against acquittal: Nature, Scope and Applicability of right of “victim” as defined in S. 2(wa) to appeal against acquittal under S. 372 proviso, explained.]*
32. ***Noor Aga v. State of Punjab and Another***, (2008) 16 SCC 417 [*“Section 35 and 54 of the Narcotics Act which imposes a reverse burden on the accused is constitutional as the standard of proof required for the accused to prove his innocence is not as high as that of the prosecution.” “Confessional statement is admissible only under Section 138 B, Customs Act if all the essential ingredients mentioned there in is satisfied.”]*

***Suggested Readings (Judgements on Circumstantial Evidence - Citations for Reference)**

1. M/s. Sri Ram Industrial Enterprizes Ltd. vs. Mahak Singh, AIR 2007 SC 1370

2.	Standard Chartered Bank vs. Andhra Bank Financial Services Ltd., (2006) 6 SCC 94
3.	Iqbal Singh Marwah Vs. Meenakshi Marwah, (2005) 4 SCC 370
4.	Bangalore Vs. S. Mani, (2005) 5 SCC 100
5.	Vice Chairman, Kendriya Vidyalaya Sangathan vs. Girdharilal Yadav, (2004) 6 SCC 325
6.	R.V.E. Venkatachala Gounder vs. Arulmgu Viswasaraswami & V.P. Temple, (2003) 8 SCC 752
7.	Narayan Govind Gavate vs. State of Maharashtra, (1977) 1 SCC 133
8.	Sita Ram Bhau Patil vs. Ram Chandra Nago Patil, (1977) 2 SCC 49

Session 11: Electronic Evidence: New Horizons, Collection, Preservation and Appreciation

1.	N.S. Nappinai, <i>Electronic Evidence- The Great Indian Quagmire</i> , (2019) 3 SCC (J)	1533
2.	Justice Raja Vijayaraghavan V., <i>Electronic Evidence</i> Workshop on Adjudicating Terrorism Cases National Judicial Academy, Bhopal-January 24, 2021	1546
3.	Justice Kurian Joseph. <i>Admissibility of Electronic Evidence</i> , (2016) 5 SCC J-1	1563
4.	Dr. Swati Mehta, <i>Cyber Forensics and Admissibility of Digital Evidence</i> , (2011) 5 SCC J-54	1510
5.	Mason Stephen and Seng Daniel, <i>The Foundations of Evidence in Electronic Form, Chapter – 3</i> Book- <i>Electronic Evidence</i> , University of London Press; Institute of Advanced Legal Studies 2017	1589
6.	<i>Standard Operating Procedures for the collection, analysis and presentation of electronic evidence, Prepared by Cybercrime Programme Office of the Council of Europe (C-PROC) – 12th September 2019</i>	1623

CASE LAW

(Judgments mentioned below include citations and short notes for reference. Please refer full judgment (available in pen drive) for conclusive opinion)

- Ravinder Singh Alias Kaku v. State of Punjab** (2022) 7 SCC 581 [Indian Evidence Act, 1872; Section 65B(4) - Certificate under Section 65B(4) is a mandatory requirement for production of electronic evidence - Oral evidence in the place of such certificate cannot possibly suffice. Criminal Trial - Circumstantial Evidence - Where a case rests squarely on circumstantial evidence, the inference of guilt can be justified only when all the incriminating facts and circumstances are found to be incompatible with the innocence of the accused. The circumstances from which an inference as to the guilt of the accused is drawn have to be proved beyond reasonable doubt and have to be shown to be closely connected with the principal fact sought to be inferred from those circumstances.]
- Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal & Ors**, (2020) 7 SCC 1 [Held that the certificate required under Section 65B(4) is a condition precedent to the admissibility of evidence by way of electronic record, as correctly held in by the 3-judge bench in **Anvar P.V. v. P.K. Basheer**, (2014) 10 SCC 473, and incorrectly “clarified” by a division bench in **Shafhi Mohammad v. State of Himachal Pradesh**, (2018) 2 SCC 801. The Court further clarified that the required certificate under Section 65B (4) is unnecessary if the original document itself is produced. The Court was hearing the reference from the July 26, 2019 [order](#) where, after quoting **Anvar P.V. v. P.K. Basheer**, (2014) 10 SCC 473 (a three Judge Bench decision of this Court), it was found that a Division Bench judgment in **Shafhi Mohammad v. State of Himachal Pradesh**, (2018) 2 SCC

*801 may need reconsideration by a Bench of a larger strength. The Division bench, in the **Shafhi Mohammad judgment**, had “clarified” that the requirement of a certificate under Section 64B(4), being procedural, can be relaxed by the Court wherever the interest of justice so justifies, and one circumstance in which the interest of justice so justifies would be where the electronic device is produced by a party who is not in possession of such device, as a result of which such party would not be in a position to secure the requisite certificate.*

3. **P. Gopalkrishnan v. State of Kerala and Anr.**, (2020) 9 SCC 161 [*The contents of the memory card/pen drive being electronic record must be regarded as a document. If the prosecution was relying on the same, ordinarily, the Accused must be given a cloned copy thereof to enable him/her to present an effective defence during the trial. However, in cases involving issues such as of privacy of the complainant/witness or his/her identity, the Court may be justified in providing only inspection thereof to the Accused and his/her lawyer or expert for presenting effective defence during the trial. The court may issue suitable directions to balance the interests of both sides.*]
4. **State by Karnataka Lokayukta, Police Station, Bengaluru v. M.R. Hiremath**, (2019) 7 SCC 515 [*Requirement of producing a certificate arises, when the electronic record is sought to be used as evidence*]
5. **Shamsher Singh Verma v. State of Haryana**, (2016) 15 SCC 485 [*The object of Section 294 Code of Criminal Procedure is to accelerate pace of trial by avoiding the time being wasted by the parties in recording the unnecessary evidence. Where genuineness of any document is admitted, or its formal proof is dispensed with, the same may be read in evidence. In view of the definition of 'document' in Evidence Act, and the law laid down by this Court, the Court held that the compact disc is also a document. It is not necessary for the court to obtain admission or denial on a document Under Sub-section (1) to Section 294 Code of Criminal Procedure personally from the accused or complainant or the witness. The endorsement of admission or denial made by the counsel for defence, on the document filed by the prosecution or on the application/report with which same is filed, is sufficient compliance of Section 294 Code of Criminal Procedure. Similarly on a document filed by the defence, endorsement of admission or denial by the public prosecutor is sufficient and defence will have to prove the document if not admitted by the prosecution. In case it is admitted, it need not be formally proved, and can be read in evidence. In a complaint case such an endorsement can be made by the counsel for the complainant in respect of document filed by the defence.*]
6. **Anvar PV v. P.K. Basheer and Ors.**, (2014) 10 SCC 473 [*The Court held that for any electronic evidence to be admissible in its secondary form, it is necessary to meet the mandatory requirements of Section 65-B, which includes giving a certificate as per terms of Section 65-B (4), at the time of proving the record and not anytime later, failing which the electronic record will be considered inadmissible.*]
7. **Gajraj v. State (NCT of Delhi)**, (2011) 10 SCC 675 [*The court observed that the IEMI number of mobile phone (sim) registered in the name of a person being evidence of a conclusive nature, it cannot be discarded on the basis of minor discrepancies especially when there is serious discrepancy in oral evidence.*]
8. **Virendra Khanna v. State of Karnataka**, 2021 SCC OnLine Kar 5032 [*Suo moto order or Direction by a Court to Share Passwords, Passcodes, Biometrics*]
9. **Rakesh Shetty v. State of Karnataka**, 2020 SCC OnLine Kar 4638 [*whether the investigating agency can retain the user name and password of social media/digital platform like Facebook and YouTube pending investigation?*]