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(iv)	Justice Y.K. Sabharwal, <b>Canons of Judicial Ethics</b> <a href="https://www.tnsja.tn.gov.in/article/Cannons%20of%20Jud%20Ethics.pdf">https://www.tnsja.tn.gov.in/article/Cannons%20of%20Jud%20Ethics.pdf</a>	
(v)	<b>Restatement of Values of Judicial Life, 1999</b> [As adopted by Full Court Meeting of the Supreme Court of India on 7th May, 1997]. <a href="https://main.sci.gov.in/pdf/Notice/02112020_090821.pdf">https://main.sci.gov.in/pdf/Notice/02112020_090821.pdf</a>	
(vi)	Justice Sunil Ambwani, <b>Ethical Reasoning in Judicial Process</b> , (2012) 4 SCC J-35	
<b>JUDGMENTS (Provided in Pen Drive)</b>		
(i)	<b>Muzaffar Husain v. State of Uttar Pradesh And Anr.</b> Civil Appeal No. 3613 of 2022  Showing undue favour to a party under the guise of passing judicial orders is the worst kind of judicial dishonesty and misconduct. The extraneous consideration for showing favour need not always be a monetary consideration. A judge must decide the case on the basis of the facts on record and the law applicable to the case. If he decides a case for extraneous reasons, then he is not performing his duties in accordance with law. As often quoted, a judge, like Caesar's wife, must be above suspicion	
(ii)	<b>Mathew Z Pulikunnel v. Chief Justice of India</b> , WP(C) NO. 17654 OF 2021  If it is held that a party who is directly or indirectly connected with a dispute decided by a Judge can approach the Court in a proceedings under Article 226 of the Constitution seeking direction on a complaint lodged against the Judge concerning the decision taken by him alleging that the same is not one conforming to the Restatement of Values of Judicial Life, there cannot be any doubt that the same will have a deleterious effect on the institution.	
(iii)	<b>Sadhna Chaudhary v. State of Uttar Pradesh</b> (2020) 11 SCC 760  Judicial officers must aspire and adhere to a higher standard of honesty, integrity and probity.	
(iv)	<b>Shrirang Yadavrao Waghmare v. State of Maharashtra</b> , (2019) 9 SCC 144  The first and foremost quality required in a Judge is integrity. The need of integrity in the judiciary is much higher than in other institutions. The judiciary is an institution whose foundations are based on honesty and integrity. It is, therefore, necessary that judicial officers should possess the sterling quality of integrity	

(v)	<p><b>Supreme Court Advocates-on-Record Assn. v. Union of India</b>, (2016) 5 SCC 808</p> <p>Principles for recusal by judge summarized.</p>	
(vi)	<p><b>Lalu Prasad v. State of Jharkhand</b>, (2013) 8 SCC 593</p> <p>In administering justice, judges should be able to act impartially, objectively and without any bias, Every litigant is entitled to fair justice. Independence of judiciary is the basic feature of the Constitution. It demands that a judge who presides over the trial, the public prosecutor who presents the case on behalf of the State and the lawyer vis-à-vis amicus curiae who represents the accused must work together in harmony in the public interest of justice uninfluenced by the personality of the accused or those managing affairs of the State. They must ensure that their working does not lead to creation of conflict between justice and jurisprudence. A person whether a judicial officer, public prosecutor or lawyer defending the accused should always uphold the dignity of their high office with a full sense of responsibility and see that its value in no circumstance gets devalued.</p>	
(vii)	<p><b>Registrar General, Patna High Court v. Pandey Gajendra Prasad</b>, (2012) 6 SCC 357</p> <p>There is no gainsaying that while it is imperative for the High Court to protect honest and upright judicial officers against motivated and concocted allegations, it is equally necessary for the High Court not to ignore or condone any dishonest deed on the part of any judicial officer.</p>	
(viii)	<p><b>R.C. Chandel v. High Court of M.P.</b>, (2012) 8 SCC 58</p> <p>There can be no manner of doubt that a Judge must decide the case only on the basis of the facts on record and the law applicable to the case. If a Judge decides a case for any extraneous reasons then he is not performing his duty in accordance with law. 10. In our view the word ‘gratification’ does not only mean monetary gratification. Gratification can be of various types. It can be gratification of money, gratification of power, gratification of lust etc., etc.</p>	
(ix)	<p><b>K.P. Singh vs. High Court of H.P. &amp; Ors.</b> 2011 SCC OnLine HP 6285</p> <p>A judge is judged not only by the quality of his judgments, but also by the quality and purity of his character and the measurable standard of that character is impeccable integrity reflected transparently in his personal life as well. One who corrects corruption should be incorruptible. That is the high standard, the public has set in such high offices of institutional integrity. Therefore, any departure from the pristine codes and values of discipline and disciplined conduct on the part of the judicial officers will have to be</p>	

	viewed very seriously lest the very foundation of the system would be shaken and, if so, that will be the death knell of democracy	
(x)	<p><b>Rajendra Singh Verma (Dead) Through LRs. v. Lieutenant Governor (NCT of Delhi), (2011) 10 SCC 1</b></p> <p>In case where the Full Court of the High Court recommends compulsory retirement of an officer, the High Court on the judicial side has to exercise great caution and circumspection in setting aside that order because it is a complement of all the Judges of the High Court who go into the question and it is possible that in all cases evidence would not be forthcoming about integrity doubtful of a judicial officer.</p>	
(xi)	<p><b>Rajesh Kohli vs. High Court of J. and K. and Anr. (2010) 12 SCC 783</b></p> <p>Upright and honest judicial officers are needed not only to bolster the image of the judiciary in the eyes of litigants, but also to sustain the culture of integrity, virtue and ethics among judges. The public's perception of the judiciary matters just as much as its role in dispute resolution. The credibility of the entire judiciary is often undermined by isolated acts of transgression by a few members of the Bench, and therefore it is imperative to maintain a high benchmark of honesty, accountability and good conduct.</p>	
(xii)	<p><b>Tarak Singh v. Jyoti Basu, (2005) 1 SCC 201</b></p> <p>There is nothing wrong in a Judge having an ambition to achieve something, but if the ambition to achieve is likely to cause a compromise with his divine judicial duty, better not to pursue it. Because, if a Judge is too ambitious to achieve something materially, he becomes timid. When he becomes timid there will be a tendency to make a compromise between his divine duty and his personal interest. There will be a conflict between interest and duty. Integrity is the hallmark of judicial discipline, apart from others. It is high time the judiciary took utmost care to see that the temple of justice does not crack from inside, which will lead to a catastrophe in the judicial-delivery system resulting in the failure of public confidence in the system. It must be remembered that woodpeckers inside pose a larger threat than the storm outside.</p>	
(xiii)	<p><b>State vs. Chief Editor, Manabjain and others, Supreme Court of Bangladesh, LEX/BDHC/0113/2002</b></p> <p>All the Judges of the superior Court and the subordinate judiciary must jealously guard the office they hold day in and day out and must not indulge in any activity or behave in a way which may have adverse effect upon his activities as Judge. We must make every</p>	

	endeavor to be above all sorts of suspicion and gossip. To safeguard the position we may suggest to follow the self-restrained path of social isolation.	
(xiv)	<b>High Court of Judicature at Bombay v. Shashikant S. Patil</b> , (2000) 1 SCC 416  Honesty and integrity are the hallmarks of judicial probity. Dishonesty and lack of integrity are hence the basic elements of misconduct as far as a Judicial Officer is concerned.	
(xv)	<b>High Court of Judicature at Rajasthan v. Ramesh Chand Paliwal</b> , (1998) 3 SCC 72  Judges have been described as ‘hermits’, further reminding that they have to live and behave like hermits, who have no desire or aspiration, having shed it through penance.	
(xvi)	<b>High Court of Judicature at Bombay v. Uday Singh</b> , (1997) 5 SCC 129  Maintenance of discipline in the judicial service is a paramount matter. Acceptability of the judgment depends upon the credibility of the conduct, honesty, integrity and character of the officer. The confidence of the litigating public gets affected or shaken by lack of integrity and character of Judicial Officer.	
(xvii)	<b>C. Ravichandran Iyer v. Justice A.M. Bhattacharjee &amp; Ors.</b> (1995) 5 SCC 457  Judicial office is essentially a public trust. Society is, therefore, entitled to expect that a Judge must be a man of high integrity, honesty and required to have moral vigour, ethical firmness and impervious to corrupt or venial influences. He is required to keep most exacting standards of propriety in judicial conduct. Any conduct which tends to undermine public confidence in the integrity and impartiality of the court would be deleterious to the efficacy of judicial process.	
(xviii)	<b>Union of India v. K.K. Dhawan</b> (1993) 2 SCC 56  The judicial officer, if acts negligently or recklessly or attempts to confer undue favour on a person or takes a decision which is actuated by corrupt motive, then he is not acting as a judge.	
(xix)	<b>All India Judges' Association v. Union Of India</b> , 1992 AIR SC 165  Para 61 – It is time we mention about society's expectation from the Judicial Officers. A judge ought to be wise enough to know that he is fallible and, therefore, even ready to learn and be courageous enough to acknowledge his errors. The conduct of every judicial officer should be above reproach. He should be conscientious, studious, thorough, courteous, 'patient, punctual, just, impartial, fearless of public clamor, regardless of public	

	praise, and indifferent to private, political or partisan influences; he should administer justice according to law, and deal with his appointment as a public trust; he should not allow other affairs or his private interests to interfere with the prompt and proper performance of his judicial duties, nor should he administer the office for the purpose of advancing his personal ambitions or increasing his popularity.	
(xx)	<b>Daya Shankar v. High Court of Allahabad</b> , (1987) 3 SCC 1  Judicial officers cannot have two standards, one in the court and another outside the court. They must have only one standard of rectitude, honesty and integrity. They cannot act even remotely unworthy of the office they occupy.	
<b>SESSION 5</b>		
<b>JUDGING SKILLS: ART, CRAFT AND SCIENCE OF DRAFTING JUDGMENTS</b>		
1.	Justice R. V. Raveendran, <b>Rendering Decisions- Basics for New Judges (Decision-Making &amp; Judgment-Writing)</b> in ANOMALIES IN LAW & JUSTICE: WRITINGS RELATED TO LAW & JUSTICE, EBC Publishing (P) Ltd. (2021) pp. 319-361.	103
2.	Justice Sunil Ambwani, <b>The Art of Writing Judgment</b> in JUDGMENTS AND HOW TO WRITE THEM, Eastern Book Company (2018)	127
3.	Andrew Goodman, <b>The Use of Language in Judgments</b> in HOW JUDGES DECIDE CASES: READING, WRITING AND ANALYSING JUDGMENTS, Wildy, Simmonds & Hill Publishing, First Edition (2007), pp. 68-114.	141
4.	Andrew Goodman, <b>Writing Judgments, Decisions and Awards</b> in HOW JUDGES DECIDE CASES: READING, WRITING AND ANALYSING JUDGMENTS, Wildy, Simmonds & Hill Publishing, First Edition (2007), pp. 171-198.	189
5.	S.D. Singh, <b>Judgments in General</b> , in JUDGMENTS AND HOW TO WRITE THEM, EBC Publishing (P) Ltd. (2018) pp. 8-45	219
6.	Justice G. Raghuram, <b>Art of Judgment.</b>	240
7.	David Neuberger, <b>Judgment and Judgments – The Art of Forming and Writing Judicial Decisions</b> , Denning Society Lecture delivered at Lincoln’s Inn, 30 November 2017.	250

8.	S. Sivakumar, <b>Judgment Or Judicial Opinion: How To Read And Analyse</b> , Journal of the Indian Law Institute, July – September 2016, Vol. 58, No. 3 (July – September 2016), pp. 273-312.	279
9.	S.I. Strong, <b>Writing Reasoned Decisions and Opinions: A Guide for Novice, Experienced, and Foreign Judges</b> , Journal of Dispute Resolution, Vol. 2015, Iss. 1 [2015], Art. 7	319
10.	Justice Michael Kirby CMG, <b>The Australian Law Journal on the Writing of Judgments</b> pp. 29-50	355
<b>JUDGMENTS (Provided in Pen Drive)</b>		
(i)	<p><b>SBI &amp; Another v. Ajay Kumar Sood</b>, (2022) SCC OnLine 1067</p> <p>The judgment replicates the individuality of the judge and therefore it is indispensable that it should be written with care and caution. The reasoning in the judgment should be intelligible and logical. Clarity and precision should be the goal. All conclusions should be supported by reasons duly recorded. The findings and directions should be precise and specific. Writing judgments is an art, though it involves skillful application of law and logic.</p>	
(ii)	<p><b>B (A Child)(Adequacy of Reasons)</b>, [2022] EWCA Civ 407</p> <p>Judgments reflect the thinking of the individual judge and there is no room for dogma, a good judgment will in its own way, at some point and as concisely as possible</p> <ol style="list-style-type: none"> <li>(1) state the background facts</li> <li>(2) identify the issue(s) that must be decided</li> <li>(3) articulate the legal test(s) that must be applied</li> <li>(4) note the key features of the written and oral evidence, bearing in mind that a judgment is not a summing-up in which every possibly relevant piece of evidence must be mentioned</li> <li>(5) record each party’s core case on the issues</li> <li>(6) make findings of fact about any disputed matters that are significant for the decision</li> <li>(7) evaluate the evidence as a whole, making clear why more or less weight is to be given to key features relied on by the parties</li> </ol>	

	<p>(8) give the court’s decision, explaining why one outcome has been selected in preference to other possible outcomes.</p> <p>The last two processes – evaluation and explanation – are the critical elements of any judgment. As the culmination of a process of reasoning, they tend to come at the end, but they are the engine that drives the decision, and as such they need the most attention. A judgment that is weighed down with superfluous citation of authority or lengthy recitation of inessential evidence at the expense of this essential reasoning may well be flawed. At the same time, a judgment that does not fairly set out a party’s case and give adequate reasons for rejecting it is bound to be vulnerable.</p>	
(iii)	<p><b>Aparna Bhat v. State of M.P.</b> (2021) SCC OnLine SC 230</p> <p>Court to make sure survivor can rely on their impartiality and neutrality. Sensitivity in judicial approach/language/reasoning. Sensitivity to the concerns of survivors of sexual offences. Embargo on orders that reflect adversely on the judicial system/undermining the guarantee to fair justice.</p>	
(iv)	<p><b>Shakuntala Shukla v. State of Uttar Pradesh</b>, 2021 SCC OnLine SC 672</p> <p>“Judgment” means a judicial opinion which tells the story of the case; what the case is about; how the court is resolving the case and why. ... It is also defined as the decision or the sentence of a court in a legal proceeding along with the reasoning of a judge which leads him to his decision. ... It is not adequate that a decision is accurate, it must also be reasonable, logical and easily comprehensible. The judicial opinion is to be written in such a way that it elucidates in a convincing manner and proves the fact that the verdict is righteous and judicious. What the court says, and how it says it, is equally important as what the court decides. ... The judgment replicates the individuality of the judge and therefore it is indispensable that it should be written with care and caution. The reasoning in the judgment should be intelligible and logical. Clarity and precision should be the goal. All conclusions should be supported by reasons duly recorded. (Refer Para 9)</p>	
(v)	<p><b>Ajit Mohan v. Legislative Assembly Delhi</b>, 2021 SCC OnLine SC 495</p> <p>It is the need of the hour to write clear and short judgments which the litigant can understand. The Wren &amp; Martin principles of precis writing must be adopted.</p>	
(vi)	<p><b>Chief Election Commissioner of India v. M. R. Vijayabhaskar</b>, (2021) 9 SCC 770</p> <p>Judges should exercise caution and circumspection in the use of language while making oral remarks in court. Language, both on the Bench and in judgments, must comport with judicial propriety.</p>	



(vii)	<p><b>Nipun Saxena v. Union of India</b>, (2019) 2 SCC 703</p> <p>Keeping in view the social object of preventing the victims or ostracising of victims, it would be appropriate that in judgments of all the courts i.e. trial courts, High Courts and the Supreme Court the name of the victim should not be indicated. This has been repeated in a large number of cases and we need not refer to all.</p>	
(viii)	<p><b>Surjeet Singh v. Sadhu Singh</b>, (2019) 2 SCC 396</p> <p>There was no need to cite several decisions and that too in detail. Brevity being a virtue, it must be observed as far as possible while expressing an opinion.</p>	
(ix)	<p><b>Kanailal v. Ram Chandra Singh</b>, (2018) 13 SCC 715</p> <p>Reasons are live links between the mind of the decision-taker to the controversy in question and the decision or conclusion arrived; Objectivity in reasons; Adjudging validity of decision; Right to reason is indispensable part of sound judicial system; Salutary requirement of natural justice</p>	
(x)	<p><b>CIT v. Saheli Leasing &amp; Industries Ltd.</b>, (2010) 6 SCC 384</p> <p>State only what are germane to the facts of the case; Must have correlation with applicable law and facts; Ratio decidendi should be clearly spelt out; Go through the draft thoroughly; Sustained chronology in judgment – perfect sequence of events; Citations should afford clarity rather than confusion; Pronounce judgment at the earliest</p>	
(xi)	<p><b>Board of Trustees of Martyrs Memorial Trust v. Union of India</b>, (2012) 10 SCC 734</p> <p>Brevity in judgment writing; Due application of mind; Clarity of reasoning; Focused consideration; Examination of every matter with seriousness; Sustainable decision.</p>	
(xii)	<p><b>Siddharth Vashisht Alias Manu Sharma v. State (NCT of Delhi)</b>, 2010 6 SCC 1</p> <p>Adverse remarks - Trial Judge made adverse remarks against prosecution-And Division Bench against trial Judge-Such adverse remarks expunged. The higher Courts in exercise of their appellate or original jurisdiction may find patent errors of law or fact or appreciation of evidence in the judgment which has been challenged before them. Despite this, what is of significance is that, the Courts should correct the error in judgment and not normally comment upon the Judge. The possibility of taking a contrary view is part of the system. The judicial propriety and discipline demand that strictures or lacerating language should not be used by the higher Courts in exercise of their appellate or supervisory jurisdiction. Judicial discipline requires that errors of judgments should be corrected by reasons of law and practice of passing comments against the lower courts</p>	

	<p>needs to be deprecated in no uncertain terms. The individuals come and go but what actually stands forever is the institution.</p>	
(xiii)	<p><b>Reliance Airport Developers (P) Ltd. v. Airports Authority of India, (2006) 10 SCC 1</b></p> <p>Discretion, in general, is the discernment of what is right and proper. It denotes knowledge and prudence, that discernment which enables a person to judge critically of what is correct and proper united with caution; nice discernment, and judgment directed by circumspection: deliberate judgment; soundness of judgment; a science or understanding to discern between falsity and truth, between wrong and right, between shadow and substance, between equity and colourable glosses and pretences, and not to do according to the will and private -affections of persons</p> <p>When it is said that something is to be done within the discretion of the authorities, that some thing is to be done according to the rules of reason and justice, not according to private opinion: according to law and not humour. It is to be not arbitrary, vague, and fanciful, but legal and regular. And it must be exercised within the limit, to which an honest man, competent to the discharge of his office ought to confine himself (Per Lord Halsbury, L C. in Sharp v. Wakefield (1891) AC 173. The word "discretion" standing single and unsupported by circumstances signifies exercise of judgment, skill or wisdom as distinguished from folly, unthinking or haste; evidently therefore a discretion cannot be arbitrary but must be a result of judicial thinking. (33 Bom 334) The word in itself implies vigilant circumspection and care: therefore, where the Legislature concedes discretion it also imposes a heavy responsibility.</p>	
(xiv)	<p><b>Deoraj v. State of Maharashtra, (2004) 4 SCC 697,</b></p> <p>Ordinarily, this Court in its exercise of jurisdiction under Article 136 of the Constitution does not interfere with the orders of interim nature passed by the High Court or Tribunals. This is a rule of discretion developed by experience, inasmuch as indulgence being shown by this Court at an interim stage of the proceedings pending before a competent Court or Tribunal results in duplication of proceedings; while the main matter is yet to be heard by the Court or Tribunal seized of the hearing and competent to do so, valuable time and energy of this Court are consumed in adjudicating upon a controversy the life of which will be co-terminus with the life of the main matter itself which is not before it and there is duplication of pleadings and documents which of necessity shall have to be placed on the record of this Court as well. However, this rule of discretion followed in practice is by way of just self-imposed discipline.</p>	

<b>SESSION 6</b>		
<b>RATIO OF A PRECEDENT</b>		
1.	Justice R.V. Raveendran, <b>Precedents – Boon or Bane?</b> in ANOMALIES IN LAW AND JUSTICE, 363 (Eastern Book Company, 2021)	377
2.	V Sudhish Pai, <b>Precedents – Scope and Limits</b> in THE CONSTITUTIONAL SUPREMACY: A REVISIT, (OakBridge Publishing Pvt. Ltd., 2019) pp. 35-54.	432
3.	Mohan Parasaran, <b>How to Comprehend Precedents</b> , (2016) 2 SCC J-28	453
4.	Chintan Chandrachud, <b>The Precedential Value of Solitary High Court Rulings in India: Carving an Exception to the Principle of Vertical Stare Decisis</b> , Lawasia Journal 25 (2011).	465
5.	Justice Sunil Ambwani, <b>'Stare decisis', amongst High Courts</b>	480
6.	Prof. Dr. A. Lakshminath, <b>Stare Decisis in the Indian Courts – Institutional Aspects</b> in JUDICIAL PROCESS – PRECEDENT IN INDIAN LAW, 3 <sup>rd</sup> Edn. 13(Eastern Book Company, 2009) pp. 13-58.	488
7.	Heward, Edmund, <b>Precedent</b> , in LORD DENNING: A BIOGRAPHY, 2nd edition (Universal Law Publishing, 2003) pp. 91-98	535
8.	Benjamin N. Cardozo, <b>Adherence to Precedent – The Subconscious Element in the Judicial Process</b> in THE NATURE OF THE JUDICIAL PROCESS 142 (Oxford University Press , 1928)	543
<b>JUDGMENTS (Provided in Pen Drive)</b>		
(i)	<b>Trimurthi Fragrances (P) Ltd. v. Government of N.C.T. of Delhi</b> , 2022 SCC OnLine SC 1247  A decision delivered by a Bench of largest strength is binding on any subsequent Bench of lesser or coequal strength. It is the strength of the Bench and not number of Judges who have taken a particular view which is said to be relevant - A Bench of lesser quorum cannot disagree or dissent from the view of law taken by a Bench of larger quorum. Quorum means the bench strength which was hearing the matter - The numerical	

	strength of the Judges taking a particular view is not relevant, but the Bench strength is determinative of the binding nature of the Judgment.	
(ii)	<b>Gregory Patrao v. Mangalore Refinery &amp; Petrochemicals Ltd.</b> , 2022 SCC OnLine SC 830  Subsequent Supreme Court Decisions which have considered & distinguished earlier judgments are binding on High Courts	
(iii)	<b>Shah Faesal v. Union of India</b> , (2020) 4 SCC 1  Per incuriam rule is strictly and correctly applicable to the ratio decidendi and not to obiter dicta. Earlier precedent can be overruled by a larger Bench if - (i) it is manifestly wrong, or (ii) injurious to public interest, or (iii) there is a social, constitutional, or economic change necessitating it. A coordinate Bench of the same strength cannot take a contrary view and cannot overrule the decision of earlier coordinate bench. No doubt it can distinguish the judgment of such earlier Bench or refer the matter to a larger Bench for reconsideration in case of disagreement with the view of such earlier Bench.	
(iv)	<b>Union of India v. R. Thiyagarajan</b> , (2020) 5 SCC 201.  Judgment of High Court applicable only to the State(s) within its jurisdiction. Pan India application of the order of the High Court would tantamount to usurpation of the jurisdiction of the other High Courts.	
(v)	<b>S.E. Graphites (P) Ltd. v. State of Telangana</b> , (2020) 14 SCC 521  Even Brief Judgments Of Supreme Court Passed After Grant Of Special Leave Are Binding Precedents	
(vi)	<b>Kaikhosrou (Chick) Kavasji Framji v. Union of India</b> , (2019) 20 SCC 705  Views in Lead Judgment are binding precedents if concurring judgments did not express any contrary opinion on it.	
(vii)	<b>M/s Bhati v. National Insurance Co. Ltd.</b> , (2019) 12 SCC 248  The law laid down by a three Judge Bench of Supreme Court in Mukund Dewangan v. Oriental Ins. Co. Ltd. (2017) as against the conflict between two judge bench decision binds this Court. As a matter of judicial discipline, the court is bound to follow that decision which continues to hold the field	

(viii)	<p><b>State of Gujarat v. Utility Users Welfare Association</b>, (2018) 6 SCC 21</p> <p>It is mandatory that there should be a person of law as a Member of the Commission, which requires a person, who is, or has been holding a judicial office or is a person possessing professional qualifications with substantial experience in the practice of law, who has the requisite qualifications to have been appointed as a Judge of the High Court or a District Judge.</p>	
(ix)	<p><b>Court on its Own Motion v. Jayant Kashmiri</b>, 2017 SCC OnLine Del 7387</p> <p>The judgments of the High Court would bind the trial courts. If an unnecessary reference to a judicial precedent or erroneous submission in law is made, the Judge considering the matter would reject the reliance thereon or the submission made. However, certainly reference to a judicial precedent cannot be termed a contumacious act.</p>	
(x)	<p><b>Union of India v. P. Shyamala</b>, 2017 SCC OnLine Mad 6715</p> <p>Exposition of law and ratio decidendi, to be accepted as a binding precedent, should be based on issues raised and argued by both sides. A mere observation without reasons is distinguishable, from a ratio decidendi.</p>	
(xi)	<p><b>State of U.P. v. Ajay Kumar Sharma</b>, (2016)15 SCC 289</p> <p>In the interest of dispensation of criminal justice that competent counsel possessing integrity should alone be appointed, since otherwise, there is a strong possibility of miscarriage of justice.</p>	
(xii)	<p><b>Hyder Consulting (UK) Ltd. v. State of Orissa</b>, (2015) 2 SCC 189</p> <p>A prior decision of this Court on identical facts and law binds the Court on the same points of law in a later case. In exceptional circumstances, where owing to obvious inadvertence or oversight, a judgment fails to notice a plain statutory provision or obligatory authority running counter to the reasoning and result reached, the principle of per incuriam may apply.</p>	
(xiii)	<p><b>Vedica Procon Pvt. Ltd. v. Balleshwar Green (Pvt.) Ltd.</b>, (2015) 10 SCC 94</p> <p>The Supreme Court found inconsistency in two judgments of the court of equal strength on the issue of opening of sale in liquidation proceedings in Navalkha &amp; Sons v. Sri Ramanya Das &amp; Others, (1969) 3 SCC 537 and Divya Manufacturing Company (P) Ltd. v. Union Bank of India &amp; Others, (2000) 6 SCC 69, observing that in the latter case, the</p>	

	Supreme Court departed from the principle laid down in 1969 case unnecessarily, thus 11969 case followed.	
(xiv)	<p><b>Sundeep Kumar Bafna v. State of Maharashtra, (2014) 16 SCC 623</b></p> <p>Per incuriam rule is strictly applicable to ratio decidendi and not to obiter dicta. When two mutually conflicting decisions of Supreme Court are cited at Bar, earlier judgment should be applied by High Court. Even if High Court Bench holds a different view, it should make a reference to the Chief Justice for constituting a larger Bench. When mutually conflicting decisions of co-equal Benches are cited, the earlier one should be followed as the latter decision would be per incuriam.</p>	
(xv)	<p><b>Rajbir Singh Dalal (Dr.) v. Chaudhari Devlal University, Sirsa &amp; Anr., (2008) 9 SCC 284</b></p> <p>The decision of a Court is a precedent, if it lays down some principle of law supported by reasons. Mere casual observations or directions without laying down any principle of law and without giving reasons do not amount to a precedent.</p>	
(xvi)	<p><b>State of Haryana v. Ranbir, (2006) 5 SCC 167</b></p> <p>Court discussed the concept of Obiter dictum- A decision, it is well settled, is an authority for what it decides and not what can logically be deduced there from</p>	
(xvii)	<p><b>Union of India v. Major Bahadur Singh, (2006) 1 SCC 368</b></p> <p>Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observations of courts are neither to be read as Euclid's theorems nor as provisions of the statute and that too taken out of their context. These observations must be read in the context in which they appear to have been stated. Judgments of courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for Judges to embark into lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statutes; their words are not to be interpreted as statutes.</p>	

(xviii)	<p><b>State of Haryana v. AGM Management Services Ltd., (2006) 5 SCC 520</b></p> <p>Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases. Disposal of cases by blindly placing reliance on a decision is not proper.</p>	
(xix)	<p><b>Central Board of Dawood Bohra Community v. State of Maharashtra, (2005) 2 SCC 673</b></p> <p>A Bench of lesser quorum cannot disagree or dissent from the view of the law taken by a Bench of larger quorum. In case of doubt all that the Bench of lesser quorum can do is to invite the attention of the Chief Justice and request for the matter being placed for hearing before a Bench of larger quorum than the Bench whose decision has come up for consideration.</p>	
(xx)	<p><b>Union of India v. Amritlal Manchanda, AIR 2004 SC 1625</b></p> <p>The Courts should not place reliance on the decisions without discussing as to how the situation fits in with the factual 12 situation. Circumstantial flexibility, one addition or a different fact, makes a difference between conclusions in two cases</p>	
(xxi)	<p><b>Deoraj v. State of Maharashtra, (2004) 4 SCC 697</b></p> <p>Ordinarily, this Court in its exercise of jurisdiction under Article 136 of the Constitution does not interfere with the orders of interim nature passed by the High Court or Tribunals. This is a rule of discretion developed by experience, inasmuch as indulgence being shown by this Court at an interim stage of the proceedings pending before a competent Court or Tribunal results in duplication of proceedings; while the main matter is yet to be heard by the Court or Tribunal seized of the hearing and competent to do so, valuable time and energy of this Court are consumed in adjudicating upon a controversy the life of which will be co-terminus with the life of the main matter itself which is not before it and there is duplication of pleadings and documents which of necessity shall have to be placed on the record of this Court as well. However, this rule of discretion followed in practice is by way of just self-imposed discipline</p>	
(xxii)	<p><b>State of Bihar v. Kalika Kuer, (2003) 5 SCC 448</b></p> <p>The Court elaborately considered the principle of per incuriam and held that the earlier judgment by a larger Bench cannot be ignored by invoking the principle of per incuriam and the only course open to the coordinate or smaller Bench is to make a request for reference to the larger Bench</p>	

(xxiii)	<p><b>Megh Singh v. State of Punjab</b>, (2003) 8 SCC 666</p> <p>Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases or between two accused in the same case. Each case depends on its own facts and a close similarity between one case and another is not enough because a single significant detail may alter the entire aspect.</p>	
(xxiv)	<p><b>Suganthi Suresh Kumar v. Jagdeeshan</b>, (2002) 2 SCC 420</p> <p>It is impermissible for the High Court to overrule the decision of the Apex Court on the ground that the Supreme Court laid down the legal position without considering any other point. It is not only a matter of discipline for the High Courts in India, it is the mandate of the Constitution as provided in Article 141 that the law declared by the Supreme Court shall be binding on all courts within the territory of India.</p>	
(xxv)	<p><b>Delhi Administration (Now NCT of Delhi) v. Manohar Lal</b>, (2002) 7 SCC 222</p> <p>Ratio decidendi has to be ascertained by the analysis of the facts of the case. The court needs to find the major premise and minor premise of the case. The major premise consists of the pre-existing rule of law. The minor premise is “the material fact of the case under immediate consideration”.</p>	
(xxvi)	<p><b>Director of Settlements, A.P. v. M.R. Apparao</b>, (2002) 4 SCC 638</p> <p>It is necessary to follow the law declared by the Supreme Court and a judgment of the Court has to be read in context of questions which arose for consideration in the case in which the judgment was delivered. An “obiter dictum” as distinguished from a “ratio decidendi” is an observation by the Court on a legal question suggested in a case before it but not arising in such manner as to require a decision. Such an obiter may not have an effect of a binding precedent but it cannot be denied that it is of considerable weight.</p>	
(xxvii)	<p><b>Vishnu Traders v. State of Haryana</b>, 1995 Supp (1) SCC 461</p> <p>In the matters of interlocutory orders, principle of binding precedent will not apply. However, the need for consistency of approach and uniformity in the exercise of judicial discretion respecting similar causes and the desirability to eliminate occasions for grievances of discriminatory treatment requires that all similar matters should receive similar treatment except where factual differences require a different treatment so that there is assurance of consistency, uniformity, predictability and certainty of judicial approach.</p>	
(xxviii)	<p><b>Hari Singh v. State of Haryana</b>, (1993) 3 SCC 114</p>	



	<p>The doctrine of precedent is not applicable to an order passed by this Court rejecting a Special Leave Petition. Any such order cannot be held to be stare decisis so that it is a binding on us.</p>	
(xxix)	<p><b>State of Punjab v. Surinder Kumar</b>, (1992) 1 SCC 489</p> <p>The High Courts have no power, like the power available to the Supreme Court under Article 142 of the Constitution of India, and merely because the Supreme Court granted certain reliefs in exercise of its power under Article 142 of the Constitution of India, similar orders could not be issued by the High Courts.</p>	
(xxx)	<p><b>CIT v. Sun Engineering Works (P) Ltd.</b>, (1992) 4 SCC 363</p> <p>While applying the decision to a latter cases, the court must carefully try to ascertain the true principle laid down by the decision of Supreme Court and not to pick out words or sentences from the judgments divorced from the context of question under consideration by the court to support their reasoning.</p>	
(xxxii)	<p><b>Krishena Kumar v. Union of India</b>, (1990) 4 SCC 207</p> <p>The doctrine of precedent i.e. being bound by a previous decision, is limited to the decision itself and as to what is necessarily involved in it. It does not mean that this Court is bound by the various reasons given in support of it, especially when they contain "propositions wider than the case itself required." [374A-B]. the enunciation of the reason or principle upon which a question before a court has been decided is alone binding as a precedent. The ratio decidendi is the underlying principle, namely, the general reasons or the general grounds upon which the decision is based on the test or abstract from the specific peculiarities of the particular case which gives rise to a decision. Apart from Article 141 of the Constitution the policy of courts is to stand by precedent and not to disturb settled point. When court has once laid down a principle of law as applicable to certain state of facts, it will adhere to that principle, and apply it to all future cases where facts are substantially the same.</p>	
(xxxiii)	<p><b>Union of India v. Raghubir Singh</b>, AIR 1989 SC 1933</p> <p>The doctrine of binding precedent has the merit of promoting a certainty and consistency in judicial decisions, and enables an organic development of the law, besides providing assurance to the individual as to the consequence of transaction forming part of his daily affairs...the doctrine of binding precedent is circumscribed in its governance by perceptible limitations, limitations arising by reference to the need for re- adjustment in</p>	

	a changing society, a re-adjustment of legal norms demanded by a changed social context.	
(xxxiii)	<b>Empire Industries Ltd. v. Union of India</b> , (1985) 3 SCC 314  Different courts sometimes pass different interim orders as the courts deem fit. It is a matter of common knowledge that the interim orders passed by particular courts on certain considerations are not precedents for other cases which may be on similar facts.	
(xxxiv)	<b>Waman Rao &amp; Ors v. Union of India</b> , (1981) 2 SCC 362  A deliberate judicial decision made after hearing an argument on a question which arises in the case or is put in issue may constitute a precedent, and the precedent by long recognition may mature into stare decisis. But these cases cannot be considered as having decided, reasons apart, that the 1st Amendment which introduced Article 31A into the Constitution is valid. Every new discovery or argumentative novelty cannot undo or compel reconsideration of a binding precedent.	
(xxxv)	<b>Commissioner of Income Tax v. Godavari Devi Saraf</b> , 1977 SCC Online Bom 215  Until contrary decision is given by any other competent High Court, which is binding on a Tribunal in the State of Bombay, it has to proceed on the footing that the law declared by the High Court, though of another State, is the final law of the land.	
(xxxvi)	<b>Regional Manager v. Pawan Kumar Dubey</b> , (1976) 3 SCC 334  It is the rule deducible from the application of law to the facts and circumstances of a case which constitutes its ratio decidendi and not some conclusion based upon facts which may appear to be similar. One additional or different fact can make a world of difference between conclusions in two cases even when the same principles are applied in each case to similar facts.	
(xxxvii)	<b>State of Orissa v. Sudhansu Sekhar Misra</b> , (1968) 2 SCR 154  A decision is only an authority for what it actually decides. The essence in a decision is its ratio and not every observation found therein nor what logically follows from the various observations made in it. It is not a profitable task to extract a sentence, here and there from a judgment and to build upon it.	
(xxxviii)	<b>K.T.M.T.M. Abdul Kayoom v. CIT</b> , 1962 Supp (1) SCR 518	

	Each case depends on its own facts and a close similarity between one case and another is not enough because even a single significant detail may alter the entire aspect. In deciding such cases, one should avoid the temptation to decide cases (as said by Cardozo) by matching the colour of one case against the colour of another. To decide, therefore, on which side of the line a case falls, the broad resemblance to another case is not at all decisive.	
(xxxix)	<b>East India Commercial Co., Ltd., Calcutta &amp; Ors v. Collector of Customs, Calcutta</b> , AIR 1962 SC 1893  The Supreme Court, on consideration of Articles 215, 226 and 227 of the Constitution of India came to the conclusion that the cumulative effect of the above noted provisions of the Constitution is that the decisions of the High Court have binding effect upon the subordinate judiciary and the tribunals.	
<b>SESSION 7</b>		
<b>PRINCIPLES OF EVIDENCE: APPRECIATION IN CIVIL AND CRIMINAL CASES</b>		
1.	Dr. Justice B. S. Chauhan, <b>Appreciation of Evidence</b> , Unpublished, prepared for NJA programme, 19.10.22.	582
2.	U.L. Bhat, <b>Presumptions (Section 79 to 90A, 113A, 114)</b> , in LECTURES ON THE INDIAN EVIDENCE ACT, Universal Law Publishing, Lexis Nexis, (2016) pp. 203-236	601
3.	U.L. Bhat (2016), <b>Burden of Proof (Sections 101 to 113, 114A &amp; 114B)</b> , in LECTURES ON THE INDIAN EVIDENCE ACT, Universal Law Publishing, Lexis Nexis, (2016) pp. 263 - 287	637
4.	Dr. Justice B. S. Chauhan, <b>Burden of Proof and Evidentiary Presumptions</b> , Unpublished, prepared for NJA programme, 19.10.2022	662
5.	Justice S. G. Gokani, <b>Burden of Proof and Reverse Burden</b> in DIAMOND JUBILEE 1960-2020 60 YEARS LEGACY AND LAW, (The High Court of Gujarat 2021) pp. 83- 93.	687
6.	David Hamer, <b>The Presumption Of Innocence And Reverse Burdens: A Balancing Act</b> , Cambridge Law Journal, 66(1), March 2007, pp. 142.	700
<b>ADDITIONAL READINGS</b>		
(i)	S.S. Upadhyay, <b>Appreciation of Evidence in Criminal Trials (for Magistrates)</b> ,	

	<a href="https://lawhelpline.in/pdfs/appreciation%20of%20evidence%20in%20criminal%20trials.pdf">https://lawhelpline.in/pdfs/appreciation of evidence in criminal trials.pdf</a>	
(ii)	S.S. Upadhyay, <b>Appreciation of Evidence in Civil Cases</b> , <a href="http://lawhelpline.in/PDFs/CIIL_LAWS/APPRECIATION_OF_EVIDENCE_IN_CIVIL_CASES.pdf">http://lawhelpline.in/PDFs/CIIL_LAWS/APPRECIATION OF EVIDENCE IN CIVIL CASES.pdf</a>	
(iii)	<b>Judgements on Circumstantial Evidence</b>  1. Suresh and Another v. State of Haryana, AIR 2018 SC 4045  2. Kulvinder Singh and Another v. State of Haryana, (2011) 5 SCC 258  3. Shanmughan v. State of Kerala, (2012) 2 SCC 788  4. Subhash Chand v. State of Rajasthan, (2002) 1 SCC 702  5. Tahsildar Singh & Another v. State of U.P, 1959 SUPP (2) SCR 875  6. Miller v. Minister of Pensions, (Aug. 9, 1947) All England Law Reporter  7. K. Gopal Reddy v. State of Andhra Pradesh, (1979) 1 SCC 355  8. Trimukh Maroti Kirkan v. State of Maharashtra, (2006) 10 SCC 681	
<b>JUDGMENTS (Provided in Pen Drive)</b>		
(i)	<b>Vijay Madanlal Choudhary. v. Union Of India</b> , 2022 SCC OnLine SC 929  Constitutionality of reverse burden of proof under Section 24 of the Prevention of Money Laundering Act, 2002 upheld.	
(ii)	<b>Shaju v. State of Kerala</b> , 2022 SCC OnLine Ker 4443  Voire dire – Child witness - Voire dire is a measure by which the Court satisfies itself about the competence of a witness to testify and the testimony cannot be totally eschewed merely for reason of its absence.	
(iii)	<b>Dauvaram Nirmalkar v. State of Chhattisgarh</b> , 2022 SCC OnLine SC 955  The prosecution must prove the guilt of the accused, that is, it must establish all ingredients of the offence with which the accused is charged, but this burden should not be mixed with the burden on the accused of proving that the case falls within an	

	exception. However, to discharge this burden the accused may rely upon the case of the prosecution and the evidence adduced by the prosecution in the court.	
(iv)	<b>Keshav v. Gian Chand</b> , 2022 SCC OnLine SC 81  The burden of establishing perfect fairness, adequacy and equity is cast upon the person in whom the confidence has been reposed.	
(v)	<b>Jaikam Khan v. State of Uttar Pradesh</b> , 2021 SCC OnLine SC 1256  Court acquitted three death row convicts on the ground that prosecution failed to discharge its burden to prove its case beyond reasonable doubt.	
(vi)	<b>Khushi Ram v. Nawal Singh</b> , 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.	
(vii)	<b>Iqbal Basith v. N. Subbalakshmi</b> , (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. 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	
(viii)	<b>Bijendar v. State of Haryana</b> , 2021 SCC OnLine SC 1028  The doctrine of extending benefit of doubt to an accused, notwithstanding the proof of a strong suspicion, holds its fort on the premise that "the acquittal of a guilty person constitutes a miscarriage of justice just as much as the conviction of the innocent".	

(ix)	<p><b>Hanif Khan v. Central Bureau of Narcotics</b>, (2020) 16 SCC 709</p> <p>Reverse burden of proof under Sections 35 &amp; 54, Narcotic Drugs and Psychotropic Substances Act, 1985 – Presumption of culpable mental state does not absolve the prosecution from establishing prima facie case, only whereafter the burden shifts to the accused.</p>	
(x)	<p><b>Rattan Singh v. Nirmal Gill</b>, 2020 SCC OnLine SC 936</p> <p>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. Opinion of an expert is not binding piece of evidence if not corroborated by other pieces of evidence.</p>	
(xi)	<p><b>Ratnagiri Nagar Parishad v. Gangaram Narayan Ambekar</b>, (2020) 7 SCC 275</p> <p>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 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.</p>	
(xii)	<p><b>Sugandhi v. P. Rajkumar</b>, (2020) 10 SCC 706</p> <p>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.</p>	
(xiii)	<p><b>Bhagwat Sharan v. Purushottam</b>, (2020) 6 SCC 387</p> <p>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.</p>	

(xiv)	<p><b>Jagmail Singh v. Karamjit Singh</b>, (2020) 5 SCC 178</p> <p>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.</p>	
(xv)	<p><b>Ravinder Kumar Grewal v. Manjit Kaur</b>, (2020) 9 SCC 706</p> <p>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.</p>	
(xvi)	<p><b>Nand Ram v. Jagdish Prasad</b>, (2020) 9 SCC 393</p> <p>Document brought on record but not proved cannot be read in evidence.</p>	
(xvii)	<p><b>C. Doddanarayana Reddy v. C. Jayarama Reddy</b>, (2020) 4 SCC 659</p> <p>Authenticity of entries of public document like school register or T.C. may be tested by court.</p>	
(xviii)	<p><b>Mohd. Yusuf v. Rajkumar</b>, (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.</p>	
(xix)	<p><b>Vimla Devi v. National Insurance Company Limited</b>, (2019) 2 SCC 186</p> <p>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.</p>	
(xx)	<p><b>Kamal Kumar v. Premlata Joshi</b>, (2019) 3 SCC 704</p> <p>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</p>	

	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.	
(xxi)	<p><b>Yashwant Sinha v. Central Bureau of Investigation</b>, (2019) 6 SCC 1</p> <p>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.</p> <p>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.</p>	
(xxii)	<p><b>Mallikarjun v. State of Karnataka</b>, (2019) 8 SCC 359</p> <p>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.</p>	
(xxiii)	<p><b>Smt. Bhimabai Mahadeo Kambekar v. Arthur Import and Export Company</b>, (2019) 3 SCC 191</p> <p>Revenue record is not a document of title. It merely raises a presumption of possession u/s 110 of the Evidence Act.</p>	
(xxiv)	<p><b>State of Andhra Pradesh v. Pullagummi Kasi Reddy Krishna Reddy @ Rama Krishna Reddy and others</b>, (2018) 7 SCC 623</p> <p>Held, 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</p>	



	<p>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.</p>	
(xxv)	<p><b>State of Himachal Pradesh v. Raj Kumar</b>, (2018) 2 SCC 69</p> <p>The court while allowing the appeal held:</p> <p>(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.</p> <p>(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.</p>	
(xxvi)	<p><b>Mukesh v. State (NCT of Delhi)</b>, (2017) 6 SCC 1 (Nirbhaya Case)</p> <p>The Court concluded that the evidence of the informant was unimpeachable and it deserved to be relied upon. The Accused persons along with 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</p>	

	<p>recovery were in consonance with law and the assailing 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.</p>	
(xxvii)	<p><b>Krishnegowda v. State of Karnataka, (2017) 13 SCC 98</b></p> <p>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,</p>	
(xxviii)	<p><b>Sudha Renukaiah v. State of Andhra Pradesh, (2017) 13 SCC 81</b></p> <p>Held, while allowing the appeal:</p> <p>(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.</p> <p>(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</p>	

	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.	
(xxix)	<p><b>Jose v. Sub-Inspector of Police, (2016) 10 SCC 519</b></p> <p>The accused has a right to rebut the presumption of guilt and it is only when prosecution establishes that the accused was present along with the victim at the time of commission of offence, only then section 106 could apply.</p>	
(xxx)	<p><b>Gajanan Dashrath Kharate v. State of Maharashtra, (2016) 4 SCC 604</b></p> <p>Initial burden to establish case is on the prosecution, but in view of the provisions of section 106 of the Evidence Act the corresponding burden lies also on the inmates of the house to cogently explain how crime was committed.</p>	
(xxxii)	<p><b>Bhagwan Jagannath Markad v. State of Maharashtra, (2016) 10 SCC 537</b></p> <p>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.</p>	
(xxxiii)	<p><b>Sheikh Zahid Mukhtar v. State of Maharashtra, SCC OnLine Bom 2600 (2016)</b></p> <p>Laid down various tests or sustaining a reverse burden in a criminal trial as constitutionally valid.</p>	
(xxxiiii)	<p><b>Pawan Kumar v. State of Uttar Pradesh, (2015) 7 SCC 148</b></p> <p>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 &amp; 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</p>	

	<p>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</p>	
(xxxiv)	<p><b>Tomaso Bruno v. State of U.P.</b>, (2015) 7 SCC 178</p> <p>The initial burden lies on the prosecution to establish that the person concerned was in a position such that he could have special knowledge of any fact.</p>	
(xxxv)	<p><b>Municipal Corporation, Gwalior v. Puran Singh</b>, (2015) 5 SCC 725</p> <p>Khasra entries are not proof of title and ownership of land.</p>	
(xxxvi)	<p><b>Union of India v. Vasavi Co-operative Housing Society Limited</b>, (2014) 2 SCC 269.</p> <p>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.</p>	
(xxxvii)	<p><b>Sebastiao Luis Fernandes v. K.V.P. Shastri</b>, (2013) 15 SCC 161</p> <p>Burden of proof is used in three ways: (i) to indicate the duty of bringing forward evidence in support of a proposition at the beginning or later; (ii) to make that of establishing a proposition as against all counter evidence; and (iii) an indiscriminate use in which it may mean either or both of the others</p>	

(xxxviii)	<p><b>Suresh Kumar v. State of Haryana</b>, (2013) 16 SCC 353</p> <p>Nature of presumption under Sections 113-B and 113-A (shall presume) – presumption under Section 113-B is mandatory.</p>	
(xxxix)	<p><b>Ayaubkhan Noorkhan Pathan v. State of Maharashtra</b>, (2013) 4 SCC 465</p> <p>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.</p>	
(xl)	<p><b>Darbara Singh v. State of Punjab</b>, 2012 (10) SCC 476</p> <p>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.</p>	
(xli)	<p><b>K.K. Velusamy v. N. Palanisamy</b>, (2011) 11 SCC 275</p> <p>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.</p>	
(xlii)	<p><b>Kapil Core Packs Pvt. Ltd v. Harvansh Lal</b>, (2010) 8 SCC 452</p> <p>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.</p>	

(xliii)	<p><b>LIC of India v. Ram Pal Singh Bisen</b>, (2010) 4 SCC 491</p> <p>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.</p>	
(xliv)	<p><b>Kumar Exports v. Sharma Carpets</b>, AIR 2009 SC 1518</p> <p>"Presumption" is an inference, affirmative or negative, of the truth or falsehood of a doubtful fact, drawn by a process of probable reasoning from something proved or taken for granted.</p>	
(xlv)	<p><b>Vishnu Dutt Sharma v. Daya Sapra</b>, (2009) 13 SCC 729</p> <p>Standard of proof required in a criminal case vis-à-vis the standard of proof in civil suit – In a criminal case the prosecution is bound to prove the commission of the offence on the part of the accused beyond any reasonable doubt, in a civil suit preponderance of probability would serve the purpose for obtaining a decree.</p> <p>In a criminal proceeding, although upon discharge of initial burden by the complainant, the burden of proof may shift on the accused, the court must apply the principles of presumption of innocence as a human right. The statutory provisions containing the doctrine of reverse burden must therefore be construed strictly. In a civil suit such strict compliance may not be insisted upon.</p>	
(xlvi)	<p><b>Noor Aga v. State of Punjab and Another</b>, (2008) 16 SCC 417</p> <p>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.</p>	
(xlvii)	<p><b>P.R. Metrani v. Commissioner of Income Tax, Bangalore</b>, (2007) 1 SCC 789</p> <p>A presumption is an inference of fact drawn from other known or proved facts. It is a rule of law under which courts are authorised to draw a particular inference from a particular fact. It is of three types, (i) "may presume", (ii) "shall presume" and (iii) "conclusive proof". "May presume" leaves it to the discretion of the court to make the presumption according to the circumstances of the case. "Shall presume" leaves no option with the court not to make the presumption. The court is bound to take the fact as proved until evidence is given to disprove it. In this sense such presumption is also rebuttable. "Conclusive proof" gives an artificial probative effect by the law to certain facts. No</p>	

	evidence is allowed to be produced with a view to combating that effect. In this sense, this is irrebuttable presumption.	
(xlviii)	<b>Manager, Reserve Bank of India, Bangalore v. S. Mani</b> , (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.	
(xlix)	<b>Bhupender Sharma v. State of Himachal Pradesh</b> , (2003) 8 SCC 551  Indian Penal Code, 1860 - Section 376 (2) (i) (g) with Explanation (1)--Rape--Gang rape--Corroboration of evidence of victim not to be insisted on as it would be adding insult to injury--Trial court convicting and sentencing accused appellant for gang rape to 4 years on ground that he did not actually commit rape--High Court enhancing sentence to minimum 10 years as prescribed--Whether justified?--Held, "yes"--Ground for reducing sentence from minimum prescribed given by trial court untenable.	
(l)	<b>Bodhisattwa Gautam v. Subhra Chakraborty</b> , AIR 1996 SC 922  Criminal - sexual assault - Sections 312, 376, 420, 493, 496 and 498-A of Indian Penal Code, 1860, Articles 21, 32, 38 (1) of Constitution of India and Section 114-A of Indian Evidence Act, 1872 - complaint registered against accused under Sections 312, 420, 493, 496 and 498-A - accused induced complainant and cohabited with her giving her false assurance of marriage - he had also gone through certain marriage ceremony with knowledge that it was not valid marriage and thereby dishonestly made complainant to believe that she was lawfully married wife of accused - accused even committed offence of miscarriage by compelling complainant to undergo abortion twice against her free will - in such cases no strict legal compulsion to look for corroboration of evidence of prosecutrix before recording Order of conviction - proceedings against accused cannot be quashed - till criminal proceedings are pending accused bound to pay compensation to complainant.	
(li)	<b>Prem Lata v. Arhant Kumar Jain</b> , AIR 1973 SC 626  When both sides had adduced evidence, the question of burden of proof pales into insignificance.	

(lii)	<b>Narayan v. Gopal</b> , AIR 1960 SC 100  Where parties have joined the issue and have led evidence and such conflicting evidence can be weighed to determine which way the issue can be decided, the question of burden of proof become academic.	
(liii)	<b>Kalua v. State of Uttar Pradesh</b> , 1958 AIR 180  Firearm Expert Evidence - Circumstantial Evidence - Firearm expert examined which conclusively proved that the cartridge had been fired from the pistol of the appellant - Circumstantial evidence sufficient to establish the guilt of the appellant - Appeal dismissed.	