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CASE LAW [FOR SESSIONS 1 & 2]

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

1. **A.S. Narayana Deekshitulu v. State of A.P. & Ors**, (1996) 9 SCC 548 [*It was held that the Andhra Pradesh Hindu Religious and Charitable Endowments Act, 1987 does not violate Article 25 & 26 of the Constitution of India, 1949 and is applicable. The genetic right to ordain priests is not important in religion or in the matter of religion or religion. The religious right guaranteed under Articles 25 & 26 of the Constitution of India, 1949 is not a complete or unrestricted right but is subject to the control of any business - economic, financial or national. The appointment of Archaka is a national act that is not regulated by law. The law regulates only the religious component of religious institutions or donations. The law does not interfere with the conduct of any religion or event. The Archakas are temple workers.*]
2. **Bhanumati & Ors v. State of U.P.**, (2010)12 SCC 1 [*The 73rd Amendment stated that “Government State” is no longer an assistance provider but will be a facilitator who will initiate individuals to develop upon equality and social justice and for the betterment of system citizens should be made aware of their functions and duty in the system. Thus, the formation of the Panchayat, its role, its selection, and many other aspects of its management are now explained more broadly under the Constitution with laws that allow the State Legislature to establish laws to execute the constitutional order. Therefore, the creation of Panchayat and its functioning is now essential under the Constitutional scheme, Part IX of the Constitution. The Supreme Court has analyzed the facts very carefully by adding a very famous doctrine of silence. Providing the fact that no-confidence motion will not affect the position of a chairperson of the gram panchayat.*]
3. **Kesavananda Bharti v. State of Kerala**, AIR 1973 SC 1461 - [*Basic structure of Constitution: The true position is that every provision of the Constitution can be amended provided in the result the basic foundation and structure of the constitution remains the same. The basic structure may be said to consist of the following features:*
 - (1) *Supremacy of the Constitution;*
 - (2) *Republican and Democratic form of Government;*
 - (3) *Secular character of the Constitution;*
 - (4) *Separation of powers between the legislature, the executive and the judiciary;*
 - (5) *Federal character of the Constitution.*

The above structure is built on the basic foundation i.e. the dignity and freedom of the individual. This is of supreme importance. This cannot by any form of amendment be destroyed. The above foundation and the above basic features are easily discernible not only from the preamble but the whole scheme of the Constitution.]

4. **Indira Nehru Gandhi v. Raj Narain & Another**; AIR 1975 SC 1590 — [*It was adjudged by the Hon’ble Court with a majority that the Amendment Act of 1951 and 1974 are against the Basic Structure of the Indian Constitution and hence are struck down on the grounds that they take away the power of jurisdiction of the court of law and hampers the principle of judicial review. The clause (4) of article 329-A under the 39th Amendment Act was also struck down on the grounds that it is beyond the power of parliament to remedy sine it undermines the Indian Constitution’s core Basic Structure. It was ruled by the court that free and fair elections is the basic feature in our democracy and hence stands as the Basic Structure of the constitution. It is pertinent to the judiciary to intervene for justice in case elections are being rigged with malicious practices].*
5. **Minerva Mills Ltd. & Ors. v. Union of India & Ors**, AIR 1980 SC 1789- [*The Supreme Court ruled that Parliament has the authority to change the Constitution without jeopardising the fundamental structural concept. Fundamental rights can be amended by Parliament as long as they are consistent with the basic structural theory.*]

6. **L. Chandra Kumar v. Union of India**, AIR 1997 SC 1125- [It is the landmark case which establishes the validity of Articles 323A and 323B, which dealt with the exclusion of High Court jurisdiction in service affairs. The judgment mentions a frequently mentioned distinction between tribunals and courts of law.]
7. **A.K. Gopalan v. State of Madras**, (AIR 1950) SC 27- [The case revolved around the Preventive Detention Act of 1950, which allowed the government to detain individuals without trial if they were deemed to be a threat to national security. A.K. Gopalan, a communist leader, challenged the constitutionality of this law.]
8. **A.D. M. Jabalpur vs. S. S. Shukla** [1976] Supp. S.C.R. 172, AIR 1976 SC 1207 – [It was a landmark judgement of the Supreme Court of India pertaining to the suspension of Articles 21 and 226 of the Indian Constitution in the event of a National Emergency.]
9. **Golak Nath v. State of Punjab**, AIR 1967 SC 1643- [The Court decided that Parliament may not limit any of the Fundamental Rights mentioned in the Constitution.]
10. **Parmanand Katara, Advocate v. Union of India & Anr.** (1995) 3 SCC 248 – Right to decent burial
11. **Om Prakash v. Ranbir B. Goyal**, (2002) 2 SCC 256 – Power of Civil Court to mould relief, Sec 151 CPC.
12. **Prithipal Singh v. State of Punjab** 2012 (1) SCC 10 – Extraordinary situation requires extraordinary measures.
13. **B.P. Achala Anand v. S. Appi Reddy** , (2005) 3 SCC 313, para 1) [The Hon'ble Supreme Court concluded that a divorced wife has a right of residency that is conditional on the divorce decision after analyzing the facts. The award of residence, whether held by a husband/family member or rented, as well as maintenance, must be explicitly stated in the divorce settlement. In this case, however, no such event was reported, or at least not brought to the court's knowledge. The appellant was then banned from continuing her appeal and defending her right against eviction by the Court. The appeal was, as a result, dismissed. Even if the wife refuses to leave, she is legally present, and the residence is subject to the Rent Acts as long as she is lawfully present. The landlord can only take ownership of the property if all of the Act's requirements are completed.]
14. **S. R. Bommai v. Union of India**, AIR 1994 SC 1918 [The Court held that Presidential proclamation under Article 356 is not absolute and the power conferred by Article 356 on president is conditioned power. The Supreme Court held that presidential proclamation is not immune from judicial review.]
15. **Olga Tellis v. Bombay Municipal Corporation**, (1985) 3 SCC 545 [It ruled that eviction of pavement dwellers using unreasonable force, without giving them a chance to explain is unconstitutional. It is a violation of their right to livelihood.]
16. **Maneka Gandhi v. Union of India**, (1978) 1 SCC 248 [It was held that the term “personal liberty” should be interpreted widely and avoid restrictive interpretation. As claimed in Satwant Singh Sawhney's Case, Freedom to go abroad is guaranteed under Article 21.]
17. **Rustom Cavasjee Cooper v. Union of India**, (1970) 1 SCC 248- [Two major principles were laid down by Supreme Court in its verdict. Those principles were –No shareholder or director can claim his or her fundamental

rights on behalf of the company unless and until his or her own rights are being affected by the same. The concept of THE EFFECT TEST was taken into account. According to this, it would be considered that the ordinance which has been passed can only be judged according to its effect and not over its motive or object.]

18. ***Md. Abdul Haque v. Fazlul Qader Chowdhury***, PLD 1963 Dacca 669 (This judgment was Dhaka High Court Judgment, wherein the doctrine of Basic structure as applied by the Indian Supreme Court had originated which was upheld in appeal by the Pakistan Supreme Court in the case ***Fazlul Qader Chowdhury V. Abdul Huq***, PLD 1963 SC 486. Later referred to in ***Anwar Hossain Chowdhury v Bangladesh (1989) [8th Amendment Case]***.)
19. ***Supreme Court of India v. Subhash Chandra Agarwal***, (2020) 5 SCC 481 [*Independence of judiciary is not limited to judicial appointments to the Supreme Court and High Courts. It is a much wider concept which takes within its sweep independence from many other pressures and prejudices. It consists of many dimensions including fearlessness from other power centers, social, economic and political, freedom from prejudices acquired and nurtured by the class to which the judges belong and the like.*]
20. ***State of Rajasthan v. Ramesh Chandra Mundra***, (2020) 20 SCC 163 [*Adequate budgeting so as to meet the judiciary's work demands, so as to ensure proper infrastructure and facilities is integral to judicial functioning. In that sense it is an aspect of judicial independence. That independence of judiciary is a part of the basic structure of the Constitution is well entrenched, an integral part of independence of judiciary as a constitutional value is institutional independence i.e. the aspect concerning the financial freedom or autonomy which the judiciary must possess and enjoy.*]
21. ***Supreme Court Advocates-on-Record Assn. v. Union of India***, (2016) 5 SCC 1 [*Institutional independence of judiciary – Complete immunity is conferred on conduct of judges and words spoken or written in discharge of judicial duties, from discussion in any legislature under Articles 121 and 211, and from civil and criminal liability.*]
22. ***Ministry of Health & Welfare, Maharashtra v. S.C. Malte***, (2012) 13 SCC 118 [*If the state is able to exercise pressure on the judges of the High Court by providing arbitrary or unreasonable conditions of service or by altering them in an arbitrary manner, it would certainly be an act of impinging upon the independence of the judiciary.*]
23. ***Brij Mohan Lal v. Union of India***, (2012) 6 SCC 502 [*Any policy or decision of the Government which would undermine or destroy the independence of the judiciary would not only be opposed to public policy but would also impinge on the basic structure of the Constitution. It has to be clearly understood that State policies should neither defeat nor cause impediment in discharge of judicial functions.*]
24. ***Maninderjit Singh Bitta v. Union of India***, (2012) 1 SCC 273 [*Disobedience of orders of the court strikes at the very root of rule of law on which the judicial system rests. The rule of law is the foundation of a democratic society. Judiciary is the guardian of the rule of law. If the Judiciary is to perform its duties and functions effectively and remain true to the spirit with which they are sacredly entrusted, the dignity and authority of the courts have to be respected and protected at all costs.*]
25. ***Glanrock Estate Pvt. Ltd. v. State of Tamil Nadu***, (2010) 10 SCC 96 [*Challenge to Schedule IX cannot succeed on merely establishing a violation of a fundamental right. In such a position State must justify its action on the anvil of "doctrine of basic structure". Violation of fundamental rights ipso facto may not violate basic structure, but a law violating the basic structure invariably violates fundamental rights. Ordinary equality distinguished from egalitarian equality as an overarching principle.*]
26. ***Parkash Singh Teji v. Northern India Goods Transport Co. (P) Ltd.***, (2009) 12 SCC 577 [*Higher court should normally avoid use of disparaging remarks against lower judicial officer while finding his judgment under appeal*]

or revision before it is to be erroneous or lacking in any such manner, particularly if the officer had not opportunity to give his explanation.]

27. **V.K. Jain v. High Court of Delhi**, (2008) 17 SCC 538 [*High Court's jurisdiction over subordinate courts – adverse remarks against subordinate judicial officers - strong remarks which damage the judicial system as a whole should not be made. Erosion of credibility is the greatest threat to independence of judiciary. No greater damage can be caused to administration of justice and to confidence of people when judges at superior courts express lack of faith either in ability or integrity of subordinate judges. The much cherished judicial independence must not be presented from outsider but from within by those who form integral part of the judicial system. Damage from within has much greater potential for harm than danger from outside. It is the duty of judges of superior courts to ensure that independence of judiciary is not compromised and every judicial officer should feel that he can freely and fearlessly give expression to his own opinion.*]
28. **Parkash Singh Badal v. State of Punjab**, (2007) 1 SCC 1 [*Control of the High Court over subordinate judiciary is comprehensive, exclusive and effective and it is to subserve the basic feature of the Constitution i.e. the independence of judiciary.*]
29. **Tirupati Balaji Developers (P) Ltd. v. State of Bihar**, (2004) 5 SCC 1 [*Appellate hierarchy of the judiciary, examined in the correct perspective, is a factor strongly contributing towards the independence of the judiciary by securing finality in adjudication within the system therefore its insulation from any outside interference or correction*]
30. **In Re: "K" a Judicial Officer**, (2001) 3 SCC 54 [*Adverse remarks - appeal filed for seeking deletion of adverse remarks passed by High Court in judgment delivered - judgment delivered in appeal filed against decision passed by appellant - appellant (Metropolitan Magistrate) contended that remarks made in judgment was not essential and adversely affect her career growth - no opportunity of explaining herself given to appellant - remarks passed were not necessary for matter decided - they were not formed the part of reasoning given in judgment although found prejudicial to appellant's career - remarks directed to be deleted.*]
31. **Registrar (Admn.), High Court of Orissa v. Sisir Kanta Satapathy**, (1999) 7 SCC 725 [*High Courts are vested with the disciplinary control as well as administrative control over the Members of the Judicial Service exclusively, but that does not mean that they can also pass orders of dismissal, removal, reduction in rank or termination from service while exercising administrative and disciplinary control over the Members of Judicial Service. Undoubtedly, the High Courts alone are entitled to initiate, to hold enquiry and to take a decision in respect of dismissal, removal, reduction in rank or termination from service, but the formal order to give effect to such a decision has to be passed only by the State Governor on the recommendation of the High Court.*]
32. **High Court of Judicature of Bombay v. Shirishkumar Rangrao Patil**, (1997) 6 SCC 339 [*Mechanism to ensure independence in subordinate judiciary – placing them under the control of High Court and regulating their service conditions.*]
33. **K. Veeraswami v. Union of India**, (1991) 3 SCC 655 [*President as the authority competent to remove judges of Supreme Court and High Courts – so that may not result in interference of executive with judiciary, criminal case against the judge must be registered and decision regarding grant of sanction for prosecution of the judges must be taken by the President in consultation and in accordance with the advice rendered by the Chief Justice of India. The decision regarding grant of sanction for prosecution of the CJI himself, must be taken by the President in consultation with the other judges of the Supreme Court.*]
34. **Three Judges Case**

- ✓ **S.P. Gupta v. Union of India**, 1981 Supp SCC 87 [*The independence of the judiciary is a basic feature of the Constitution. “Consultation” did not include “concurrence”. The power of appointment of Judges under Article 124 was vested with the President and the President could override the views of the consultees.*]
 - ✓ **Supreme Court Advocates-on-Record Assn. v. Union of India**, (1993) 4 SCC 441 [*Primacy of the opinion of the Chief Justice of India in regard to the appointments of Judges to the SC and the HC, and in regard to the transfers of HC Judges/Chief Justices (based on a collective decision, by a collegium of judges.)*]
 - ✓ **In re Special Reference 1 of 1998**, (1998) 7 SCC 739 [*Opinion of the Chief Justice of India has primacy in the matter of recommendations for appointment to the Supreme Court has to be formed in consultation with a collegium of Judges.*]
35. **Supreme Court Advocates-on-Record Assn. v. Union of India**, (2016) 5 SCC 1 [*Process of appointment of judges is an integral part of independence of the judiciary, which is part of the basic structure of the Constitution*]
36. **Kunnummal Mohammed & Anr v. State of Kerala**, AIR 1963 Kerala 54 [*Access to Legal Aid*] [*Before me part with the case we have to strike a note of warning against the practice of some of the Sessions Judges appointing raw and inexperienced juniors to defend the accused in capital cases. If however such inexperienced advocates alone are available to defend such unfortunate accused, the court has a primary duty to come to the aid of the accused by putting timely and useful questions and warning the advocates from treading on dangerous grounds. In this case it is really unfortunate that the court has instead, freely made use of the defects resulting from the inexperience of the advocates to built up the case against the accused.*]

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3. Arun K Thiruvengadam, **Origins and Crafting of the Constitution** in **THE CONSTITUTION OF INDIA: A CONTEXTUAL ANALYSIS**, Hart Publishing, (2017)
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17. Granville Austin, WORKING A DEMOCRATIC CONSTITUTION, A HISTORY OF THE INDIAN EXPERIENCE, Oxford University Press (2004)
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20. Rohan J. Alva, LIBERTY AFTER FREEDOM: A HISTORY OF ARTICLE 21, DUE PROCESS AND THE CONSTITUTION OF INDIA, HarperCollins India (2022)

**SESSION 02
CONSTITUTIONAL VISION OF JUSTICE**

1.	Justice M N Venkatachaliah, <i>Constitutional Ideals & Justice in Plural Societies</i> , NIAS Foundation Day Lecture, June 2016, published by National Institute of Advanced Studies.	313
2.	Singh, M. P. (2015-2016), <i>Mapping the Constitutional Vision of Justice and its Realization</i> , Journal of National Law University, Delhi (3), 1-16	333
3.	Justice A. K. Sikri, <i>Constitutional Democracy: India's Moments (Constitution and Constitutionalism)</i> in THE CONSTITUTION OF INDIA: CELEBRATING AND CALIBRATING 70 YEARS, Lalit Bhasin (Ed.), Law & Justice Publishing Co. (2020) pp. 2-34	350
4.	Rex E. Lee & Richard G. Wilkins, <i>On Greatness and Constitutional Vision: Justice Byron R. White</i> , 1994 BYU L. Rev.291 (1994)	369
5.	Fali S. Nariman, <i>Quest for Justice: Collection of Essays</i>	392
6.	Mahantesh G. S., <i>Social and Economic Justice under Constitution of India: A Critical Analysis</i> , 2018 IJLMH Volume 2, Issue 1 ISSN: 2581-5369	405
7.	Dr. S. Muralidhar, <i>Trials, Errors And Hope, Indian Experiments with Access to Justice</i> , Journal of National Judicial Academy on Judicial Reforms, 1 J. NAT'L JUD ACAD. 2005	416

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2.	Justice Ruma Pal, <i>Judicial Oversight or Overreach: The Role of the Judiciary in Contemporary India</i> , (2008) 7 SCC (J)

**SESSION 03
ELECTRONIC EVIDENCE: NEW HORIZONS, COLLECTION, PRESERVATION AND APPRECIATION**

	N.S. Nappinai, <i>Electronic Evidence- The Great Indian Quagmire</i> , (2019) 3 SCC (J)	
	Justice Kurian Joseph, <i>Admissibility of Electronic Evidence</i> , (2016) 5 SCC J-1	
	Dr. Swati Mehta, <i>Cyber Forensics and Admissibility of Digital Evidence</i> , (2011) 5 SCC J-54	

	Mason Stephen and Seng Daniel, <i>The Foundations of Evidence in Electronic Form</i> in ELECTRONIC EVIDENCE, University of London Press; Institute of Advanced Legal Studies (2017) pp. 36-69	
	<i>Standard Operating Procedures for the Collection, Analysis and Presentation of Electronic Evidence</i> prepared by Cybercrime Programme Office of the Council of Europe (C-PROC) – 12 th September 2019	
	Seth, Hasit, <i>Impossibility Exception To The S.65-B(4) Electronic Evidence Certificate (June 1, 2021)</i> . Available at SSRN: https://ssrn.com/abstract=3859581 or http://dx.doi.org/10.2139/ssrn.3859581	
	Dr. J.N. Barowalia and Dr. Aarushi Jain, Chapter VIII Electronic Evidence , in CYBER LAW AND CYBER CRIMES, page 348- 409, Vinod Publications, (2023)	
<p>CASE LAW</p> <p><i>(Judgments mentioned below include citations and short notes for reference. Please refer full judgment (available in pen drive) for conclusive opinion)</i></p>		
	<ol style="list-style-type: none"> 1. Ravinder Singh Alias Kaku v. State of Punjab (2022) 7 SCC 581 [<i>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.</i>] 2. Virendra Khanna v. State of Karnataka, 2021 SCC OnLine Kar 5032 [<i>Polygraph Test - Whether Petitioner's application to recall order of Polygraph test is not tenable in Law as it amounts to testimonial compulsion hit by Article 20(3) of Constitution is rightly rejected by court below? - Held, trial court has directed Petitioner accused to co-operate with Investigating agency and provide password, pass code for smart phone, as also for e-mail account of Petitioner, this court is of opinion that examination of a smart phone or an e-mail account is in nature of a search being carried out, such a search cannot be so carried out without a search warrant - Trial Court by merely directing Petitioner to co-operate with Investigating agency, Petitioner cannot be forced or constrained to provide such a password, passcode, biometrics etc, for purpose of opening of smartphone and or an e-mail account, much less without recording reasons for same - Process and procedure as discussed above would have to be followed - For all above reasons, order passed by trial directing Petitioner to co-operate with investigating agency ad provide a password to open smart phone and email account is not proper or legal and is therefore set aside - Liberty is, however, reserved to prosecution to file necessary applications, which would be considered by trial court in accordance with applicable law - Whether order passed by Trial Court directing Petitioner to undergo a polygraph test violates rights of Petitioner under Article 20 of Constitution? - Trial Court, by its order 29.03.2020, had directed administration of polygraph test on Petitioner - This order was passed on an oral request without there being an application filed by prosecution and no opportunity having been provided to either Petitioner or his counsel - Petitioner was also not heard on same nor was his consent obtained by trial Court before order of relevant date was passed - Though it is contended by Spl. P.P. that order of relevant date only directed administration of a polygraph test and that no polygraph test would have been administered without consent of Petitioner; no such order could have been passed without having obtained consent of an accused like Petitioner - Petitioner having not consented to administration of a polygraph test and in fact having challenged same, refusing administration thereof, had categorically indicated that he does not wish to be subjected to a polygraph test, this court is of opinion that no polygraph</i> 	

test could be administered on Petitioner - Mere silence of person would not amount to consent on behalf of such person - If a person were to refuse administration of polygraph test, no such polygraph test could be administered and even if administered, result of said test would be void and cannot be considered by a Court of Law - Order passed by trial Court, directing petitioner to furnish password, pass code or Biometrics of his mobile phone and e-mail account is set aside - Order passed by trial Court, directing petitioner to undergo a polygraph test is set aside - Order impugned passed on recalling application does not survive for consideration

3. **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 Shafi 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 Shafi 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.*]
4. **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?]*
5. **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.]*
6. **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]*
7. **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.*]
8. **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-*

	<p><i>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.]</i></p> <p>Gajraj v. State (NCT of Delhi), (2011) 10 SCC 675 [<i>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.</i>]</p>
<p>SESSION 04 ELEMENTS OF JUDICIAL BEHAVIOUR: ETHICS NEUTRALITY, AND PROFESSIONALISM</p>	
1.	Justice R.V. Raveendran, How to be a Good Judge: Advice to New Judges in ANOMALIES IN LAW & JUSTICE: WRITINGS RELATED TO LAW & JUSTICE, EBC Publishing (P) Ltd., (2021) pp. 277-317
2.	Lord Denning, “ Into the Conduct of Judges ” in THE DUE PROCESS OF LAW, Oxford University Press (2012), pp. 58-66
3.	Restatement of Values of Judicial Life, 1999 [As adopted by Full Court Meeting of the Supreme Court of India on 7th May, 1997]. https://main.sci.gov.in/pdf/Notice/02112020_090821.pdf
4.	Aharon Barak, The Role of the Judge: Theory, Practice and the Future in THE JUDGE IN A DEMOCRACY, Princeton University Press (2008) pp. 306-315
5.	Robert A. Leflar, The Quality of Judges , 35 IND. L.J. 289 (1960)
6.	R. C. Lahoti, Canons of Judicial Ethics , NJA Occasional Paper Series No. 5, National Judicial Academy, Bhopal, India
<p>CASE LAWS (Judgments mentioned below include citations and short notes for reference. Please refer full judgment (available in pen drive) for conclusive opinion)</p>	
1.	Muzaffar Husain v. State of Uttar Pradesh and Anr. 2022 SCC OnLine SC 567 [<i>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. It is often said that "the public servants are like fish in the water, none can say when and how a fish drank the water". 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</i>]
2.	Mathew Z Pulikunnel v. Chief Justice of India , WP(C) NO. 17654 OF 2021 [<i>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.</i>]
3.	Sadhna Chaudhary v. State of Uttar Pradesh (2020) SCC Online 307 [<i>Judicial officers must aspire and adhere to a higher standard of honesty, integrity and Probity</i>]
4.	Shrirang Yadavrao Waghmare v. State of Maharashtra , (2019) 9 SCC 144 [<i>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</i>]
5.	Lalu Prasad v. State of Jharkhand (2013) 8 SCC 593 [<i>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</i>]

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.]

6. **Supreme Court AOR v. Union of India**, (2016) 5 SCC 808 [*Impartiality of a Judge, Recusal by a Judge when warranted*]
7. **Registrar General, Patna High Court v. Pandey Gajendra Prasad**, 2012 STPL(Web) 305 SC [*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*]
8. **Rajendra Singh Verma (Dead) Through LRs. v. Lieutenant Governor (NCT of Delhi)**, (2011) 10 SCC 1 [*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*]
9. **Tarak Singh v. Jyoti Basu**, (2005)1 SCC 201 [*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.”*]
10. **High Court of Judicature at Bombay v. Shashikant S. Patil**, (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*]
11. **Union of India v. K.K. Dhawan** (1993) AIR 1478 [*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*]
12. **High Court of Judicature at Rajasthan v. Ramesh Chand Paliwal**, (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. Their mission is to supply light and not heat*]
13. **High Court of Judicature at Bombay v. Uday Singh**, (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*]
14. **Daya Shankar v. High Court of Allahabad**, (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*]
15. **State vs. Chief Editor, Manabjainin and others**, LEX/BDHC/0113/2002 (**Supreme Court of Bangladesh**), [*To safeguard the position Court suggested suggested to follow the self-restrained path of social isolation. The Supreme Court held that Judges should keep the confidence of the public in the judiciary by laying down certain key points.*]

16. **C. Ravichandran Iyer v. Justice A.M. Bhattacharjee & Ors.** (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*]
17. **K.P. Singh vs. High Court of H.P. & ors.** 2011(3)KLJ11 [*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 viewed very seriously lest the very foundation of the system would be shaken and, if so, that will be the death knell of democracy...*]
18. **R.C. Chandel v. High Court of M.P.,** (2012) 8 SCC 58 [*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.*]
19. **All India Judges' Association v. Union Of India,** 1992 AIR 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.*]
20. **Rajesh Kohli vs. High Court of J. and K. and Anr.** (2010) 12 SCC 783 [*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.*]
21. **In Re: "K" a judicial officer,** (2001) 3 SCC 54 [*Adverse remarks - appeal filed for seeking deletion of adverse remarks passed by High Court in judgment delivered - judgment delivered in appeal filed against decision passed by appellant - appellant (Metropolitan Magistrate) contended that remarks made in judgment was not essential and adversely affect her career growth - no opportunity of explaining herself given to appellant remarks passed were not necessary for matter decided - they were not formed the part of reasoning given in judgment although found prejudicial to appellant's career - remarks directed to be deleted.*]
22. **Bidi Supply Co. v. Union of India,** AIR 1956 SC 479 [*The heart and core of a democracy lies in the judicial process, and that means independent and fearless Judges free from executive control brought up in judicial traditions and trained to judicial ways of working and thinking. The main bulwarks of liberty and freedom lie there and it is clear to me that uncontrolled powers of discrimination in matters that seriously affect the lives and properties of people cannot be left to executive or quasi executive bodies even if they exercise quasi-judicial functions because they are then invested with an authority that even Parliament does not possess. Under the Constitution, Acts of Parliament are subject to judicial review particularly when they are said to infringe fundamental rights, therefore, if under the Constitution Parliament itself has not uncontrolled freedom of action, it is evident that it cannot invest lesser authorities with that power.*]

23. <i>Sarojini Ramaswami v. Union of India</i> , 1992 (4) SCC 506 [The five-Judge Bench of Hon'ble Supreme Court in its judgment delivered on 27th August 1992 in the case held that the impeachment facing Judge Mr. V. Ramaswamy would not be entitled to a copy of the Inquiry Committee Report at the stage when it is to be submitted to the Speaker for tabling the same before the House of People. The Supreme Court has rested this conclusion on the premise that the concerned Judge would be able to seek a judicial review of the finding of 'guilty' of the Inquiry Committee, if any, after the Presidential order of removal of Judge, if passed. The declaration that at the end of the Parliament's vote and consequential order of the President removing the Judge, the finding of 'guilt' can be subjected to judicial review is a controversial proposition.]		
Additional Readings		
1.	Leslie Steven Rothenberg, <i>The Role of Judges and the Courts as Definers of Ethical Norms</i> , Selected Papers from the Annual Meeting (American Society of Christian Ethics), 1977, Eighteenth Annual Meeting (1977), pp. 104-128	
2.	Justice G. S. Singhvi, <i>Judicial Ethics</i> 7(2) Journal of Delhi Judicial Academy 93-106 (2011)	
3.	Justice Sunil Ambwani, <i>Ethical Reasoning in Judicial Process</i> , (2012) 4 SCC J-35	
4.	Justice V. K. Bist, <i>Judicial Behavior and Conduct in the Present Scenario</i> , Uttarakhand Judicial & Legal Review, Uttarakhand Judicial & Legal Review, Available at: https://ujala.uk.gov.in/files/ch1.pdf	
5.	Commentary on <i>Bangalore Principles of Judicial Conduct</i> , United Nations office on Drugs and Crime, September 2007 [A detailed draft commentary was prepared on each of the Bangalore Principles and discussed in depth, together with the Principles, at the Open-Ended Intergovernmental Expert Group Meeting on Strengthening Basic Principles of Judicial Conduct held in Vienna on 1-2 March 2007. The Commentary gives depth and strength to the Principles and contributes significantly to furthering their global adoption as a universal declaration of judicial ethics]. Link to access: https://www.unodc.org/documents/corruption/publications_unodc_commentary-e.pdf	
6.	<i>The Bangalore Principles of Judicial Conduct, 2002</i> [The Bangalore Draft Code of Judicial Conduct 2001 adopted by the Judicial Group on Strengthening Judicial Integrity, as revised at the Round Table Meeting of Chief Justices held at the Peace Palace, The Hague, November 25-26, 2002].	
7.	Cynthia Gray, <i>Ethical Standards for Judges</i> , American Judicature Society [Ethical Standards for Judges was developed in 1999 under grant from the State Justice Institute, "An Educational Program for Members of State Judicial Conduct Organizations." It was substantially up-dated and revised in 2009]	
SESSION 05		
JUDGING SKILLS: ART, CRAFT AND SCIENCE OF DRAFTING JUDGMENTS		
1.	Justice R. V. Raveendran, <i>Rendering Decisions- Basics for New Judges (Decision-Making & Judgment-Writing)</i> in ANOMALIES IN LAW & JUSTICE: WRITINGS RELATED TO LAW & JUSTICE, EBC Publishing (P) Ltd. (2021) pp. 319-361	7 9 5
2.	Justice G. Raghuram, <i>Art of Judgment</i>	8 1 9
3.	Justice Sunil Ambwani, <i>The Art of Writing Judgment</i> in JUDGMENTS AND HOW TO WRITE THEM, Eastern Book Company (2018)	8 2 9
4.	S. I. Strong, <i>Writing Reasoned Decisions and Opinions: A Guide for Novice, Experienced, and Foreign Judges</i> , 2015(1) Journal of Dispute Resolution 93 – 128 (2015)	8 4 1

5.	S.D. Singh, <i>Judgments in General</i> , in JUDGMENTS AND HOW TO WRITE THEM, EBC Publishing (P) Ltd. (2018) pp. 8-45	8 7 7
6.	Andrew Goodman, <i>The Use of Language in Judgements</i> in HOW JUDGES DECIDE CASES: READING, WRITING AND ANALYSING JUDGMENTS, Wildy, Simmonds & Hill Publishing, Second Edition, pp. 68-114	8 9 8
7.	Justice Michael Kirby CMG, <i>The Australian Law Journal on the Writing of Judgments</i> pp. 29-50	9 4 8

Additional References:

1. S. Sivakumar, *Judgment or Judicial Opinion: How To Read and Analyse*, Journal of the Indian Law Institute, July – September 2016, Vol. 58, No. 3 (July – September 2016), pp. 273-312

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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. ***SBI & Another v. Ajay Kumar Sood***, (2022) SCC OnLine 1067 [*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.*]

2. ***B (A Child)(Adequacy of Reasons)***, [2022] EWCA Civ 407 (Lord Justice Peter Jackson & Lady Justice Nicola Davies) (Relevant Paras 59 and 60)

Judgments reflect the thinking of the individual judge and there is no room for dogma, but in my view a good judgment will in its own way, at some point and as concisely as possible: state the background facts; identify the issue(s) that must be decided; articulate the legal test(s) that must be applied; 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; record each party's core case on the issues; make findings of fact about any disputed matters that are significant for the decision; 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; give the court's decision, explaining why one outcome has been selected in preference to other possible outcomes.

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.

3. ***Aparna Bhat v. State of M.P.*** (2021) SCC OnLine SC 230 [*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. Removing gender bias.*]

4. ***Shakuntala Shukla v. State of Uttar Pradesh***, 2021 SCC OnLine SC 672 [*“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)

5. **Ajit Mohan v. Legislative Assembly Delhi**, 2021 SCC OnLine SC 495 [*it is the need of the hour to write clear and short judgments which the litigant can understand. The Wren & Martin principles of precis writing must be adopted.*]
6. **Chief Election Commissioner of India v. M. R. Vijayabhaskar**, (2021) 9 SCC 770 [*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.*]
7. **Nipun Saxena v. Union of India**, (2019) 2 SCC 703, [*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.*]
8. **Surjeet Singh v. Sadhu Singh**, (2019) 2 SCC 396 [*...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*]
9. **Kanailal v. Ram Chandra Singh**, (2018) 13 SCC 715 [*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*]
10. **Joint Commissioner of Income Tax v. Saheli Leasing & Industries Ltd.**, (2010) 6 SCC 384 [*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*]
11. **Board of Trustees of Martyrs Memorial Trust v. Union of India**, (2012) 10 SCC 734 [*Brevity in judgment writing; Due application of mind; Clarity of reasoning; Focussed consideration; Examination of every matter with seriousness; Sustainable decision*]
12. **Siddharth Vashisht Aias Manu Sharma v. State (NCT of Delhi)**, 2010 6 SCC 1 [*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 needs to be deprecated in no uncertain terms. The individuals come and go but what actually stands forever is the institution.*]
13. **Reliance Airport Developers v. Airport Authority of India and Ors**, (2006) 10 SCC 1 [*Judicial Discretion – Parameters to be followed while exercising Discretion - Relevant Paras 26-35*] [*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. 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.]

14. **Deoraj v. State of Maharashtra**, (2004) 4 SCC 697 [*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.*]
15. **Bhupinder Sharma v. State of Himachal Pradesh**, (2003) 8 SCC 551 [*In 1983, in order to prevent social victimisation, the IPC was amended inserting provision of section 228A, clause (3) thereof makes disclosure of the identity of victim of sexual offences without permission of that court, punishable.*]
16. **State of Karnataka v. Puttaraja**, [(2004) 1 SCC 475] [*...keeping in view the social object of preventing social victimization or ostracism of the victim of a sexual offence for which Section 228A has been enacted, it would be appropriate that in the judgments, be it of the Supreme Court, High Court or lower courts, the name of the victim should not be indicated. The Apex Court reiterated the said principle*]
17. **Anil Rai v. State of Bihar** (2001) 7 SCC 318 [*Repeated adjournment of matters 'for orders' after arguments are heard is impermissible.*]

**SESSION 06
PRINCIPLES OF EVIDENCE: APPRECIATION IN CIVIL AND CRIMINAL CASES**

1.	Dr. Justice B. S. Chauhan, [Unpublished, prepared for NJA programme, 19.10.22.] – <i>Appreciation of Evidence</i> – <i>Burden of Proof and Evidentiary Presumptions</i>	971
2.	U.L. Bhat, LECTURES ON THE INDIAN EVIDENCE ACT, Universal Law Publishing, Lexis Nexis, (2016) – <i>Presumptions (Section 79 to 90A, 113A, 114)</i> , pp. 203-236 – <i>Burden of Proof (Sections 101 to 113, 114A & 114B)</i> , pp. 263-287	1015
3.	Justice S. G. Gokani, <i>Burden of Proof and Reverse Burden</i> in DIAMOND JUBILEE 1960-2020 60 YEARS LEGACY AND LAW, (The High Court of Gujarat 2021) pp. 83- 93.	1076
4.	David Hamer, <i>The Presumption Of Innocence and Reverse Burdens: A Balancing Act</i> , Cambridge Law Journal, 66(1), March 2007, pp. 142.	1089
5.	Anton Koshelev and Ekaterina Rusakova, <i>The Problem of Admissibility of Evidence in Indian Civil Proceedings</i> , SHS Web of Conferences 106 , 02015 (2021) MTDE 2021	1120
6.	S.S. Upadhyay, <i>Appreciation of Evidence in Civil Cases</i> , available at: http://lawhelpline.in/pdfs/civil_laws/appreciation_of_evidence_in_civil_cases.pdf	1125

Additional References:

Osborn, Albert S. (Albert Sherman), 1858-1946., **THE PROBLEM OF PROOF** [especially as exemplified in disputed document trials : a discussion of the proof of the facts in courts of law : with some general comments on the conduct of trials], Law and Justice 2020

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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. **Rahul v. State (NCT of Delhi)**, (2023) 1 SCC 83 [*Held that DNA evidence is an opinion evidence as under section 45 and like any other opinion evidence its probative value depends on case to case basis. The law in regard [to confession] is very clear that the confession before the police officer by the accused when he is in police custody, cannot be called an extra-judicial confession. If a confession is made by the accused before the police, and a portion of such confession leads to the recovery of any incriminating material, such portion alone would be admissible under Section 27 of the Evidence Act, and not the entire confessional statements. ... the information furnished to the investigating officer leading to the discovery of the place of the offence would be admissible to the extent indicated in Section 27 read with Section 8 of the Evidence Act, but not the entire disclosure statement in the nature of confession recorded by the police officer.*]
2. **Gireesan Nair v. State of Kerala**, (2023) 1 SCC 180 [*In cases where the witnesses have had ample opportunity to see the accused before the identification parade (TIP) is held, it may adversely affect the trial. It is the duty of the prosecution to establish before the court that right from the day of arrest, the accused was kept "baparda" to rule out the possibility of their face being seen while in police custody. If the witnesses had the opportunity to see the accused before the TIP, be it in any form i.e. physically, through photographs or via media (newspapers, television, etc.), the evidence of the TIP is not admissible as a valid piece of evidence (Lal Singh v. State of U.P. [Lal Singh v. State of U.P., (2003) 12 SCC 554 : 2004 SCC (Cri) Supp 489] and Suryamoorthi v. Govindaswamy [Suryamoorthi v. Govindaswamy, (1989) 3 SCC 24 : 1989 SCC (Cri) 472])*]
3. **Indrajit Das v. State of Tripura**, 2023 SCC OnLine SC 201 [*At the threshold, the Court noted that the case is of circumstantial evidence and ought to fulfil the two-fold requirement – 1) Every link in the chain of circumstances necessary to establish the guilt of the accused must be established beyond reasonable doubt; and 2) All the circumstances must be consistently pointing towards the guilt of the accused.*
"The basic links in the chain of circumstances starts with motive, then move on to last seen theory, recovery, medical evidence, expert opinions if any and any other additional link which may be part of the chain of circumstances."]
4. **Vijay Madanlal Choudhary. v. Union Of India**, 2022 SCC OnLine SC 929 [*Constitutionality of reverse burden of proof under Section 24 of the Prevention of Money Laundering Act, 2002 upheld*]
5. **Shaju v. State of Kerala**, 2022 SCC OnLine Ker 4443 [*voir 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.*]
6. **Dauvaram Nirmalkar v. State of Chhattisgarh**, 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.*]
7. **Keshav v. Gian Chand**, 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.*]
8. **Jaikam Khan v. State of Uttar Pradesh**, 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.*]

9. **Khushi Ram v. Nawal Singh**, 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.]
10. **Iqbal Basith v. N. Subbalakshmi**, (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.]
11. **Bijendar v. State of Haryana**, 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".]
12. **Rattan Singh v. Nirmal Gill**, 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. Opinion of an expert is not binding piece of evidence if not corroborated by other pieces of evidence.]
13. **Ratnagiri Nagar Parishad v.. Gangaram Narayan Ambekar**, (2020) 7 SCC 275 [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.]
14. **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.]
15. **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.]
16. **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.]
17. **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.]
18. **Nand Ram v. Jagdish Prasad**, (2020) 9 SCC 393 [Document brought on record but not proved cannot be read in evidence.]

19. **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.*]
20. **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.*]
21. **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.*]
22. **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.*]
23. **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.]
24. **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.*]
25. **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.*]
26. **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.*]
27. **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 quarrelled 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.]

28. **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 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 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.]
29. **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.]
30. **Sudha Renukaiah v. State of Andhra Pradesh**, (2017) 13 SCC 81 [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.

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.]

31. **Jose v. Sub-Inspector of Police**, (2016) 10 SCC 519 [*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.*]
32. **Gajanan Dashrath Kharate v. State of Maharashtra**, (2016) 4 SCC 604 [*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.*]
33. **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.*]
34. **Sheikh Zahid Mukhtar v. State of Maharashtra**, SCC OnLine Bom 2600 (2016) [*The facts stated in the Preamble and the Statement of Objects and Reasons appended to any legislation are evidence of legislative judgment. The Court would begin with a presumption of reasonability of the restriction, more so when the facts stated in the Statement of Objects and Reasons and the Preamble are taken to be correct and they justify the enactment of law for the purpose sought to be achieved".*]
35. **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.*]
36. **Tomaso Bruno v. State of U.P.**, (2015) 7 SCC 178 [*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.*]
37. **Municipal Corporation, Gwalior v. Puran Singh**, (2015) 5 SCC 725 [*Khasra entries are not proof of title and ownership of land.*]
38. **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.*]

39. **Sebastiao Luis Fernandes v. K.V.P. Shastri**, (2013) 15 SCC 161 [*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.*]
40. **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.*]
41. **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.*]
42. **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.*]
43. **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.*]
44. **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.*]
45. **Kumar Exports v. Sharma Carpets**, AIR 2009 SC 1518 [*"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.*]
46. **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.*]
47. **P.R. Metrani v. Commissioner of Income Tax, Bangalore**, (2007) 1 SCC 789 [*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 evidence is allowed to be produced with a view to combating that effect. In this sense, this is irrebuttable presumption.*]
48. **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.*]

49. **Bhupender sharma v. State of Himachal Pradesh**, (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.*]
50. **Bodhisattwa Gautam v. Subhra Chakraborty**, 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.*]
51. **Prem Lata v. Arhant Kumar Jain**, AIR 1973 SC 626 [*When both sides had adduced evidence, the question of burden of proof pales into insignificance.*]
52. **Narayan v. Gopal**, 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.]*
53. **Kalua v. State of Uttar Pradesh**, 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.*]
54. **Anil Rishi v. Gurbaksh Singh**, (2006) 5 SCC 558
55. **Raghavamma v. Chechamma**, 1964 AIR 136
56. **Dahyabhai Chhagan Bhai Thakkar v. State of Gujarat**, 1964 AIR 1563
57. **Ashok v. State of Maharashtra**, (2015) 4 SCC 393, [Last Seen Theory]
58. **Sumitha Pradeep v. Arun Kumar**, 2022 SCC Online SC 1529 [POCSO, refer Para 11]
59. **State of Haryana v. Sher Singh**, (1981) 2 SCC 300
60. **K.M. Nanavati v. State of Maharashtra**, 1962 Supp (1) SCR 567 [*The legal impact of section 103 & section 105 of the Indian Evidence Act on the question of burden of proof may be stated thus: In India, as it is in England, there is a presumption of innocence in favour of the accused as a general rule, and it is the duty of the prosecution to prove the guilt of the accused; to put it in other words, the accused is presumed to be innocent until his guilt is established by the prosecution. But when an accused relies upon the general exceptions in the Indian Penal Code or on any special exception or proviso contained in any other part of the Penal Code, or in any law defining an offence, Section 105 of the Evidence Act raises a presumption against the accused and also throws a burden on him to rebut the said presumption. Under that Section the Court shall presume the absence of circumstances bringing the case within any of the exceptions, that is, the court shall regard the non-existence of such circumstances as proved till they are disproved.*]
61. **Mohan Lal v. State of Punjab**, (2018) 17 SCC 627 [*A fair trial to an accused, a constitutional guarantee under Article 21 of the Constitution, would be a hollow promise if the investigation in an NDPS case were not to be fair or raises serious questions about its fairness apparent on the face of the investigation. In the nature of the reverse burden of proof, the onus will lie on the prosecution to demonstrate on the face of it that the investigation was fair, judicious with no circumstances that may raise doubts about its veracity. The obligation of proof beyond reasonable*]

doubt will take within its ambit a fair investigation, in the absence of which there can be no fair trial. If the investigation itself is unfair, to require the accused to demonstrate prejudice will be fraught with danger vesting arbitrary powers in the police which may well lead to false implication also. Investigation in such a case would then become an empty formality and a farce. Such an interpretation therefore naturally has to be avoided.]

62. **Bhola Singh v. State of Punjab**, (2011) 11 SCC 653 [The culpable mental state of an accused has to be proved as a fact beyond reasonable doubt and not merely when its existence is established by a preponderance of probabilities.]
63. **Dharampal Singh v. State of Punjab**, (2010) 9 SCC 608 [The initial burden of proof of possession lies on the prosecution and once it is discharged legal burden would shift on the accused. Standard of proof expected from the prosecution is to prove possession beyond all reasonable doubt but what is required to prove innocence by the accused would be preponderance of probability. Once the plea of the accused is found probable, discharge of initial burden by the prosecution will not nail him with offence.]
64. **Seema Silk & Sarees v. Directorate of Enforcement**, (2008) 5 SCC 580 [Reverse burden as also statutory presumptions can be raised in several statutes as, for example, the Negotiable Instruments Act, the Prevention of Corruption Act, TADA, etc. Presumption is raised only when certain foundational facts are established by the prosecution. The accused in such an event would be entitled to show that he has not violated the provisions of the Act.]
65. **P.N. Krishna Lal v. Govt. of Kerala**, 1995 Supp (2) SCC 187 [It is thus settled law even under general criminal jurisprudence that Sections 105 and 106 of the Evidence Act place a part of the burden of proof on the accused to prove facts which are within his knowledge. When the prosecution establishes the ingredients of the offence charged, the burden shifts on to the accused to prove certain facts within his knowledge or exceptions to which he is entitled to. Based upon the language in the statute the burden of proof varies. However, the test of proof of preponderance of probabilities is the extended criminal jurisprudence and the burden of proof is not as heavy as on the prosecution. Once the accused succeeds in showing, by preponderance of probabilities that there is reasonable doubt in his favour, the burden shifts again on to the prosecution to prove the case against the accused beyond reasonable doubt, if the accused has to be convicted.]
66. **Rabindra Kumar Dey v. State of Orissa**, (1976) 4 SCC 233 [On the question, the nature and extent of the onus of proof placed on an accused person who claims the benefit of an exception is exactly the same as the nature and extent of the onus placed on the prosecution in a criminal case; it was observed that, there is consensus of judicial opinion in favour of the view that where the burden of an issue lies upon the accused, he is not required to discharge that burden by leading evidence to prove his case beyond a reasonable doubt. That, no doubt, is the test prescribed while deciding whether the prosecution has discharged its onus to prove the guilt of the accused; but that is not a test which can be applied to an accused person who seeks to prove substantially his claim that his case falls under an exception. Where an accused person is called upon to prove that his case falls under an exception, law treats the onus as discharged if the accused person succeeds 'in proving a preponderance of probability'. As soon as the preponderance of probability is proved, the burden shifts to the prosecution which has still to discharge its original onus. It must be remembered that basically, the original onus never shifts and the prosecution has, at all stages of the case, to prove the guilt of the accused beyond a reasonable doubt.]
67. **Prem Chand (Paniwala) vs Union Of India (Uoi) And Ors**, AIR 1981 SC 613 [Emphasis on emphasise the need of the State to issue clear orders to the Police Department to free the processes of investigation and prosecution from the contamination of concoction through the expediency of stockpiling of stock-witnesses. To police persons who get rich quick by methods not easily or licitly understandable, is perhaps a social service. Among the list of wanted persons must be not only the poor suspects but the dubious rich. To keep an eye on their activities, without close shadowing and surveillance may, perhaps, lead to criminal discoveries, if they are not too influential for the police. By this judgment what we mean is not to tell the Police to fold up their hands and remain inactive when anti-social elements suddenly grow in wealth but to be activist and intelligent enough to track down those who hold the nation's health, wealth, peace and security in jeopardy. The only insistence is that the means must also be as good as the ends.]

Additional References:		
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1.	Goswami, G.K., <i>Forensic Law</i> , 51 Annual Survey of Indian Law 597-630 (2015)	1165
2.	Andrew Haesler, <i>Testing and challenging DNA evidence to avoid miscarriages of justice</i> , (delivered at Public Defender’s Conference 13 March 2021).	1186
3.	Subhash Chandra Singh, <i>DNA Profiling and the Forensic use of DNA Evidence in Criminal Proceedings</i> , 53(2) Journal of the Indian Law Institute (APRIL-JUNE 2011)	1232
4.	Dr. Nirpat Patel, Vidhwansh K Gautaman & Shyam Sundar Jangir, <i>The Role of DNA in Criminal Investigation – Admissibility in Indian Legal System and Future Perspectives</i> , 2(7) International Journal of Humanities and Social Science Invention 15-21 (2013)	1265
5.	Kirubakar Radhakrishnan, <i>DNA Fingerprinting Current Perspectives and Challenges in India – An Analysis</i> , 2(2) International Journal of Law, Management and Humanities 1-16 (2019)	1272
Suggested Reading:		
<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)		
CASE LAW		
<i>(Judgments mentioned below include citations and short notes for reference. Please refer full judgment for conclusive opinion)</i>		
<ol style="list-style-type: none"> 1. <i>Ashok Kumar v. Raj Gupta</i>, (2022) 1 SCC 20 [When the plaintiff is unwilling to subject himself to the DNA test, forcing him to undergo one would impinge on his personal liberty and his right to privacy.] 2. <i>Ashok Kumar Chandel v. State of UP</i>, 2022 SCC OnLine SC 1525 [Where there are credible injured eye witness testimonies, certain minor variations, such as non-recovery of blood stained clothes, certain other weapons etc. will not be fatal to the case of the prosecution.] [Sec. 293 CrPC - SC observed that a ballistic report forwarded by Director/deputy Director/Assistant Director of a lab under the seal to be in compliance with the statutory requirement under Sec. 293 CrPC] 3. <i>Veerendra v. State of Madhya Pradesh</i>, 2022 SCC OnLine SC 622 [The lapse or omission (purposeful or otherwise) to carry out DNA profiling, by itself, cannot be permitted to decide the fate of a trial for the offence of rape especially, when it is combined with the commission of the offence of murder - Even if such a flaw had occurred in the investigation in a given case, the Court has still a duty to consider whether the materials and evidence available on record before it, is enough and cogent to prove the case of the Prosecution.] 		

4. ***Hari Om alias Hero v. State of Uttar Pradesh***, (2021) 4 SCC 345 [In absence of any other reliable incriminatory materials, the evidence of child witness could not be made the basis to convict appellant. Further, opinion of fingerprint expert is not substantive evidence and such opinion can only be used to corroborate some items of substantive evidence which are otherwise on record.]
5. ***Inayath Ali & Anr v. State of Telangana & Anr***, SLP (CrI) No. 4946/2017 [DNA Test for Paternity – Right to Privacy Test could be prejudicial to the privacy rights of persons subjected to it – Sec. 112 of Indian Evidence Act, 1872, (Para 7)]
6. ***Pattu Rajan v. State of Tamil Nadu***, (2019) 4 SCC 771 [Reliability of The Novel “Superimposition Technology” for Investigation & its Comparative Preference to DNA Test]
7. ***Chennadi Japapathi Reddy v. Baddam Pratapa Reddy***, (2019) 14 SCC 220 [A court must be cautious while evaluating expert evidence, which is a weak type of evidence and not substantive in nature it may not be safe to solely rely upon such evidence, and the Court may seek independent and reliable corroboration in the facts of a given case. Generally, mere expert evidence as to a fact is not regarded as conclusive proof of it.]
8. ***Rajendra Pralhadrao Wasnik v. State of Maharashtra***, (2019) 12 SCC 460 [DNA profiling is an extremely accurate way to compare a suspect’s DNA with crime scene specimens, victim’s DNA on the blood-stained clothes of the accused or other articles recovered, DNA testing can make a virtually positive identification when the two samples match. A DNA finger print is identical for every part of the body, whether it is the blood, saliva, brain, kidney or foot on any part of the body. It cannot be changed; it will be identical no matter what is done to a body. Even relatively minute quantities of blood, saliva or semen at a crime scene or on clothes can yield sufficient material for analysis. The Experts opine that the identification is almost hundred per cent precise. Using this i.e. chemical structure of genetic information by generating DNA profile of the individual, identification of an individual is done like in the traditional method of identifying finger prints of offenders.]
9. ***Ritesh Sinha v. State of UP***, 2019 SCC OnLine SC 956 [The Supreme Court has conceded to judicial magistrate the power to order a person to give sample of his voice for the purpose of investigation of crime “until explicit provisions are engrafted in the Code of Procedure by Parliament”.]
10. ***Mukesh v. State (NCT of Delhi)***, 2017 (6) SCC 1 (Nirbhaya Case) [The DNA profiling, which was done after taking due care for quality, proved to the hilt the presence of the Accused in the bus and their involvement in the crime. The submission that certain samples were later on taken from the Accused and planted on the deceased to prove the DNA aspect was noted only to be rejected because it had no legs to stand upon. The argument that the transfusion of blood had the potentiality to give rise to two categories of DNA or two DNAs was farthest from truth and there was no evidence on that score. On the contrary, the evidence in exclusivity points to the matching of the DNA of the deceased with that of the Accused on many aspects. The evidence brought on record with regard to finger prints was absolutely impeccable and the Trial court and the High Court correctly placed reliance on the same and that there was no reason to disbelieve the same. The scientific evidence relating to odontology showed how far the Accused proceeded and where the bites were found and it was extremely impossible to accept the submission that it had been a manipulation by the investigating agency to rope in the Accused persons. The evidence brought on record as regards criminal conspiracy stands established. The brutal, barbaric and diabolic nature of the crime was evincible from the acts committed by the Accused persons. The aggravating circumstances outweigh the mitigating circumstances now brought on record. Therefore, the High Court correctly confirmed the death penalty.]
11. ***S.P.S. Rathore v. Central Bureau of Investigation & Another***, (2017) 5 SCC 817 [It is not essential that the handwriting expert must be examined in a case to prove or disprove the disputed writing. It is opinion evidence and it can rarely, if ever, take the place of substantive evidence. It is thus clear, that uncorroborated evidence of a handwriting expert is an extremely weak type of evidence and the same should not be relied upon either for the conviction or for acquittal.]
12. ***Machindra v. Sajjan Gafla Rankhamb & other***, (2017) 13 SCC 491 [Where medical evidence is such that it does not give any clear opinion with respect to injuries inflicted on body of victim or deceased, as the case may be,

possibilities that injuries might have been caused by accused are also ruled out. such medical evidence is very important to assess the testimonies of eyewitness and whether they can be accepted or not.]

13. **Nandlal Wasudeo Badwaik v. Lata Nandlal Badwaik & Anr** (2014) 2 SCC 576 [Section 112 of the Evidence Act does not create a legal fiction but provides for presumption.]
14. **Sushil Sharma v. State (NCT of Delhi)**, (2014) 4 SCC 317 (Tandoor Murder Case) [Medical evidence establishing that death was caused by bullet injury in head and neck of deceased and that burns were post-mortem- CFSL report establishing that bullets recovered from flat and skull of deceased were fired from A-1's revolver] [Court held that the chain of circumstances is complete and unerringly points to the guilt with the help of medical evidence including post-mortem and DNA report.]
15. **Anil v. State of Maharashtra**, (2014) 4 SCC 69 [Regarding Variance in Results of DNA Tests & its Impact on Reliability]
16. **Dharam Deo Yadav vs State Of U.P.**, (2014) 5 SCC 509 [Crime Scene Management - Judiciary should also be equipped to understand and deal with such scientific materials. Constant interaction of Judges with scientists, engineers would promote and widen their knowledge to deal with such scientific evidence and to effectively deal with criminal cases based on scientific evidence.]
17. **Nupur Talvar v. CBI And Anothers**, (2012) 11 SCC 465 [In the stage of issuance of process, the Magistrate is not required to weigh the evidence meticulously as if it was the trial court nor is it required to be scrutinize the evidence by same standard by which the trial court scrutinizes the evidence at the time of framing of charge]
18. **Dayal Singh & Others v. State of Uttaranchal**, (2012) 8 SCC 263 [Expert report should be well authored and convincing. Report, duly proved has evidentiary value but it is not binding on the court.]
19. **Surendra Koli v. State of Uttar Pradesh & others**, (2011) 4 SCC 80 [Under medical jurisprudence, the matching of DNA of deceased with that of her parents and brother is considered as an established identity of the dead body.]
20. **Santosh Kumar Singh v. State**, (2010) 9 SCC 747 [Priyadarshini Matoo Case][DNA report is "scientifically accurate and an exact science", & court cannot substitute its own opinion for that of an expert]
21. **Selvi vs. State of Karnataka**, AIR 2010 SC 1974 [The Supreme Court in this case considered the constitutionality of various evidence gathering techniques including narco analysis, BEAP (Brain Electrical Activation Profile) or 'brain mapping', and polygraph tests.]
22. **Bhabani Prasad Jena v. Convener Secretary Orissa State Commission for Women and Another** (2010) 8 SCC 633 [The Court noted the sensitivities involved with the issue of ordering a DNA test, and therefore held that the court should use its discretion only after balancing the interests of the parties. It ruled that a court should consider the 'eminent need' and weigh the pros and cons of ordering a DNA test, especially when there is a conflict between the right to privacy of a person who is being compelled to take the test and the duty of the court to reach the truth.]
23. **Premjibhai Bachubhai Khasiya v. State of Gujarat**, 2009 SCC OnLine Guj 12076, [Whether the DNA report can be the sole basis and conclusive evidence of the paternity of the child (foetus) or guilt of the accused for rape, in absence of any other evidence]
24. **Pantangi Balarama Venkata Ganesh vs State Of A.P.**, 2009 Cri. L.J. 4144 ["there cannot be any doubt whatsoever that there is a need of quality control. Precautions are required to be taken to ensure preparation of high molecular weight DNA complete digestion of the samples with appropriate enzymes, and perfect transfer and hybridization of the blot to obtain distinct bands with appropriate control.]
25. **Ghurey Lal v. State of UP**, (2008) 10 SCC 450, [According to the trial court, the medical evidence coupled with the Ballistic Expert report revealed the existence of two fires from two weapons and as such was inconsistent with the prosecution story. In our administration of criminal justice an accused is presumed to be innocent unless such a presumption is rebutted by the prosecution by producing the evidence to show him to be guilty of the offence with which he is charged. Further if two views are possible on the evidence produced in the case, one indicating to the guilt of the accused and the other to his innocence, the view favourable to the accused is to be accepted.]

<p>26. Banarsi Dass v. Teeku Dutta, (2005) 4 SCC 449 [The verdict of displacement of the presumption shall not be rendered on the basis of slender materials. If a husband and wife were living together during the time of conception but the DNA test revealed that the child was not born to the husband, the conclusiveness in law would remain irrebuttable.]</p> <p>27. Goutum Kundu v. State of West Bengal (1993) 3 SCC 418 [It was held that even without the consent of the guardian ad litem, the court had power to order an infant be subjected to a blood group test. There is no justification for the court below to refuse the same on the ground that Section 112 of the Evidence Act would be an obstacle in seeking relief of blood group test.]</p> <p>28. State of Bombay v. Kathi Kalu Oghad AIR 1961 SC 1808 [the use of material samples such as fingerprints for the purpose of comparison and identification does not amount to a testimonial act for the purpose of Article 20(3).]</p>	
<p>SESSION 8 JUDICIARY AND MEDIA: NEED FOR BALANCE</p>	
1.	Justice G. Raghuram. Media as an Instrument of Public Accountability , NALSAR Media Law Review, Vol 3, NMLR 2013
2.	Justice G. S. Singhvi. Trial by Media: A Need to Regulate Freedom of Press , Bharati Law Review, Oct.- Dec., 2012
3.	K.G. Balakrishnan, Reporting of Court Proceedings by Media and the Administration of Justice? , (2010) 6 SCC J-1
4.	Judith Gibson, Social Media and the Electronic “New World” of Judges , Revista Forumul Judecatorilor – Nr. 1/2017
5.	Sudhanshu Ranjan, Media And Judiciary: Revitalization Of Democracy , Journal of the Indian Law Institute, 57(3) 415-436 (July September 2015)
	Lord Woolf, Should the Media and the Judiciary be on Speaking Terms? Irish Jurist , 2003, New Series, Vol. 38 (2003), pp. 25-3
<p>CASE LAW (Judgments mentioned below include citations and short notes for reference. Please refer full judgment for conclusive opinion)</p>	
1.	Kaushal Kishor v. State of U.P. , 2023 SCC OnLine SC 6 [No grounds outside Article 19(2) can be availed to restrict free speech. The Supreme Court while relying upon the transformative jurisprudence relating to the interpretation of Articles 19 and 21 of the Constitution of India has held that the initial understanding that fundamental rights can only be claimed against the State has changed, and today, rights under Article 19 and 21 of the Constitution can also be enforced against persons other than the State or its instrumentalities. The expansive interpretation adopted by the Supreme Court ensures the continued relevance of the Fundamental Rights to meet the challenges of today’s day and age.]
2.	T.N. Suraj v. State of Kerala and Others , 2022 SCC OnLine Ker 2710 [It is the well-accepted thumb rule that the Press shall not indulge in sensationalism; or in speculating upon the guilt or otherwise of any accused or other individual; or to create an opinion about the comportment or character of a person involved in the Trial; and not to embellish, by impelling or sponsoring an opinion they seek. Media can't usurp courts' jurisdiction and cannot be given right to speculate on outcomes of ongoing investigations or criminal trials.]

	<ol style="list-style-type: none"> 3. Venkatesh alias Chandra and Another v. State of Karnataka, 2022 SCC OnLine SC 765 [TV debates on criminal cases pending in courts amount to interference with the administration of justice. Allowing said DVD to go into the hands of a private TV channel so that it could be played and published in a program is nothing but a dereliction of duty and direct interference in the administration of Justice.] 4. The Chief Election Commissioner of India vs. M.R Vijayabhaskar & Ors., 2021 SCC Online SC 364 [The apex court included the media reporting of judicial proceedings under the fundamental right of freedom of speech and expression stating that it is part of freedom of the press. Oral remarks are not a part of the official judicial record, and therefore, the question of expunging them does not arise.] 5. Vijay Singhal and Ors. v. Govt. of NCT of Delhi and Anr., 2013 SCC OnLine Del 1221 [The trials' objective is to meet the ends of justice, and if, there is a competition in order to meet that end between the right to freedom of expression against the right to a free trial, the right to free trial would trump upon the right to freedom of expression.] 6. Vidya Dhar v. Multi Screen Media (P) Ltd, (2013) 10 SCC 145 [Whether the broadcasting of dramatised version of events that led to conviction would have any prejudicial effect on the fair trial at the appellate stage. Held, Trial of the petitioners and conviction has been completed, hence there is no possibility of any bias against them at the time of hearing of the appeal. The contents of the trial, the judgment and sentence is in the public domain and available for anyone to see. To safeguard the interests of the petitioners, restrictions imposed on the screening of the episode on television. Media channel directed to ensure that there is no direct similarity of the characters in the serial with the petitioners, and steps be taken to protect their identity.] 7. Misreporting of Court Proceedings by Newspapers, In re, (2012) 13 SCC 580 [Distorted reporting of the court proceedings has the tendency of lowering the dignity of the institution and brings the entire institution of judiciary to ridicule in the eyes of the public and also shakes the people's confidence in the independence and integrity of the institution.] 8. Sahara India Real Estate Corporation Ltd. and Ors. v. Securities and Exchange Board of India and Anr., (2012) 10 SCC 603 [Media has a right to know what is happening in courts and to communicate the information to the public which strengthens the confidence of the public in the transparency of the court proceedings. Sometimes a reporting of trial that is accurate and fair like a murder trial would anyway give rise to a substantial risk of prejudice that might not be related to the pending trials but later in the connected trials. The fairness of the later or connected trials is not only safeguarded by the postponement but it also helps in preventing the possible contempt by the Media.] 9. Siddharth Vashishth alias Manu Sharma v. State (NCT of Delhi), (2010) 6 SCC 1 [Every effort should be made by the print and electronic media to ensure that the distinction between trial by media and informative media should always be maintained. Trial by media should be avoided particularly, at a stage when the suspect is entitled to the constitutional protections. Invasion of his rights is bound to be held as impermissible.] 10. Rajendra SAIL v. M.P. High Court Bar Association & Ors, (2005) 6 SCC 109 [While the media can, in the public interest, resort to reasonable criticism of a judicial act or the judgment of a Court for public good, it should not cast scurrilous aspersions on, or impute improper motives or personal bias to the judge. Nor should they scandalize the Court or the judiciary as a whole, or make personal allegations of lack of ability or integrity against a judge. The judgments of Courts are public documents and can be commented upon, analyzed and criticized, but it has to be in a dignified manner without attributing motives.] 	
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11. **State of Maharashtra v. Rajendra Jawanmal Gandhi**, (1997) 8 SCC 386 [A trial by electronic media, press or by way of public agitation is anti-thesis to the rule of law and can lead to a miscarriage of justice.]
12. **Sushil Sharma v. State (Delhi Admn.)**, 1996 SCC OnLine Del 345 [The Delhi High Court held that no conviction will be based upon the media report but upon the facts that have been placed on record. It is supposed that the Judge dealing with the case should be neutral. If the decision is based upon the accepted news items, the petitioner will insist upon denial of a fair trial because it would cause aspiration on the Judge of being not neutral. Even if there is less report or no report available, the charge should be framed on the basis of material available on record.]
13. **Indian Express Newspapers (Bombay) (P) Ltd. v. Union of India**, (1985) 1 SCC 641 [The freedom of the press is the heart of social and political intercourse. The press has now assumed the role of public educators and makes education possible at a large scale by imparting formal and non-formal education particularly in the developing world, where all forms of modern communication like television and other kinds are not available to all the sections of the society. The objective of the press is to boost the public interest by publishing opinions and facts without which the responsible judgement cannot be made by a democratic electorate (Government). Newspapers which are purveyors of news and views of the people have a bearing on public administration and frequently carry material which would not be pleasing to Governments and other authorities.]
14. **In Re: P. C. Sen**, AIR 1970 SC 1821 [The genuine risk of prejudicial remarks made in newspapers or by any mass media which must be guarded against is the —impression that such comments might have on the Judge’s mind or even on the minds of witnesses for a litigant.]
15. **Saibal Kumar Gupta and Ors. v. B.K. Sen and Anr.**, (1961) 3 SCR 460 [It would be mischievous for a newspaper to intrude into a crime and execute an independent investigation for which the accused or suspect has been arrested and then to publish the outcomes of that investigation. This is mischievous because when there is an ongoing trial by one of the regular tribunals of the country then trial by newspapers must be prohibited. This is based upon the view that such action by the newspaper of doing an investigation tends to interfere with the course of justice, whether the investigation tends to prejudice the accused or the prosecution.]
16. **Aswini Kumar Ghose v. Arabinda Bose**, (1952) 2 SCC 237 [The article published in Times of India not only criticised a judgement of the Court, but went on to imply motives to the Judges. Had the article just been a criticism, it would have been accepted. But because the article targeted the Judges, it lowered the dignity of the Court, which attracted the contempt proceedings against the editor, publisher and printer of Times of India. Contempt of court cannot arise if a particular Judge has alone been criticised or written negatively about. Only if the content so published also affects the public opinion of the judiciary can contempt proceedings be initiated.]
17. **Dr. Shashi Tharoor v. Arnab Goswami**, (2018) 246 DLT 279 [defendants have right to air their stories and same cannot be curbed but it has to be tempered and balanced. Court held, injunction cannot be granted, that it is important that when criminal investigation has commenced, media reporting should be sensitive to indeterminacy of questions raised in proceedings. Press cannot ‘convict anyone’ or insinuate that he/she is guilty or make any other unsubstantiated claims, press has to exercise care and caution while reporting about matters under investigation or pending trial. Delhi High Court further held, before airing any story pertaining to plaintiff, defendants shall give plaintiff a written notice by electronic mode asking for his version. If plaintiff refuses or does not reply within a reasonable time he will not be compelled to speak and story will be aired with disclosure that plaintiff has refused to speak to defendants]
18. **Indu Jain v. Forbes Incorporated**, (2007) SCC Online Del 1424 [Any right to privacy must encompass and protect the personal intimacies of the home, the family, marriage, motherhood,

	<p><i>procreation and child rearing. We create a grave risk of serious impairment of the indispensable service of a free press in a free society if we saddle the press with the impossible burden of verifying to a certainty the facts associated in news articles with a person's name, picture or portrait, particularly as related to non-defamatory matter. The American Courts have repeatedly emphasised that public figures and public officials may recover for the tort of intentional infliction of emotional distress by reasons of publications only upon showing, in addition that the publication contains a false statement of fact which was made with 'actual malice' with knowledge, that the statement was false or made with reckless disregard as to whether or not it was true. (Ref: 99 L Ed 2d 41 Hustler Magazine and Larry C. Flynt v. Jerry Falwell)]</i></p> <p>19. Prosecutor v. Nahimana Case No ICTR-99-52-A [The appeals chamber in <i>The Media Case</i> held that media can cause genocide and constitute persecution, that media leaders can be held responsible for incitement through media or for acts media cause, and that this causal link need not be proven exclusive or essential. The media at issue must "contribute[] substantially to the commission of the crime, but [it] need not be a sine qua non condition for its commission"]</p> <p>20. Saleem Ullah v. State, (1992) 44 DLR AD 309 [The Bangladesh SC held that a court is to suffer criticism and only in exceptional cases of bad faith or ill motive should it resort to contempt actions.]</p> <p>21. Dewan Abdul Kader v. Bangladesh, (1994) 46 DLR 596 [It recognized freedom of expression in Article 39 of the Constitution as a right to express one's own opinion freely by spoken words, writing, printing, painting, or in any other manner.]</p> <p>The State v. Mr. Swadesh Roy , 2015, 44 CLC (AD) [A verdict by top appeals judges has said the court can initiate contempt proceedings if anybody is deemed to have undermined its authority or the dignity of the court, or scandalising the court or any judge. "Since various questions arise in the mind of the people of the country, the litigants, the lawyers, persons in the print, electronic and social media regarding the power of this Court to punish for contempt of Court any citizen of the country, being the highest Court of the country, this Division feels it proper to give some guidelines which will be reflected in our detailed judgment,"]</p>	
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SESSION 09
CRIMINAL JUSTICE ADMINISTRATION AND HUMAN RIGHTS

1.	Prof. B. B. Pande, Rationalising the Pre-Trial Processes in India, Chapter-X , Criminal Law and Criminal Justice: Advanced Legal Writings, EBC First Ed. 2022	148 4
2.	Justice R.C. Chavan , Rebuilding Confidence in Criminal Justice System, More Cries in Wilderness , 44-65, AIR Law Academy & Research Center Nagpur, First Ed., (2020)	150 6
3.	Justice R.C. Chavan , Fair Trial Rights and Criminal Justice System , Chapter - 14 , Cries in Wilderness , 114-119, First Ed., (2014)	1529
4.	Bhagwati, P.N., Human Rights in the Criminal Justice System , 27(1) Journal of the Indian Law Institute 1-22 (1985)	1536
5.	Sinha, S.B., J. Human Rights vis-a-vis the Criminal Justice System , Retrieved from http://jkmtrust.tripod.com/id5.html	155 8

Suggested Reading:

- ✓ Harsh Bora, **Handbook of landmark Judgments on Human Rights and Policing in India**, CHRI 2020
- ✓ **What is Fair Trial? A Basic Guide to Legal Standards and Practice**, Lawyers Committee for Human Rights. Lawyers Committee for Human Rights (March 2000)

CASE LAW

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

1. **Premchand v. State of Maharashtra** 2023 SCC OnLine SC 218 [*Supreme Court briefly summarised the settled principles with respect to Section 313 Code of Criminal Procedure, 1973. The court discussed the importance of Section 313 Cr.P.C. and the trite law in that respect. It referred to a catena of judgments State of U.P. v. Lakhmi - value of a statement under Section 313 Cr.P.C; Sanatan Naskar v. State of West Bengal - object of Section 313 Cr.P.C; Reena Hazarika v. State of Assam - rationale behind requirement to comply with Section 313 Cr.P.C; Parminder Kaur v. State of Punjab; M. Abbas v. State of Kerala - importance of Section 313 Cr.P.C. The Bench summarised the well settled principles as under:
“a. section 313, Cr. P.C. [clause (b) of sub-section 1] is a valuable safeguard in the trial process for the accused to establish his innocence; b. section 313, which is intended to ensure a direct dialogue between the court and the accused, casts a mandatory duty on the court to question the accused generally on the case for the purpose of enabling him to personally explain any circumstances appearing in the evidence against him; c. when questioned, the accused may not admit his involvement at all and choose to flatly deny or outrightly repudiate whatever is put to him by the court; d. the accused may even admit or own incriminating circumstances adduced against him to adopt legally recognized defences; e. an accused can make a statement without fear of being cross-examined by the prosecution or the latter having any right to cross-examine him; f. the explanations that an accused may furnish cannot be considered in isolation but has to be considered in conjunction with the evidence adduced by the prosecution and, therefore, no conviction can be premised solely on the basis of the section 313 statement(s); g. statements of the accused in course of examination under section 313, since not on oath, do not constitute evidence under section 3 of the Evidence Act, yet, the answers given are relevant for finding the truth and examining the veracity of the prosecution case; h. statement(s) of the accused cannot be dissected to rely on the inculpatory part and ignore the exculpatory part and has/have to be read in the whole, inter alia, to test the authenticity of the exculpatory nature of admission; and i. if the accused takes a defence and proffers any alternate version of events or interpretation, the court has to carefully analyze and consider his statements; j. any failure to consider the accused’s explanation of incriminating circumstances, in a given case, may vitiate the trial and/or endanger the conviction.”*]
2. **Sunita Devi v. State of Haryana**, (2023) 1 SCC 178 [*Re S. 438 CrPC qua refusal of grant of anticipatory bail by High Court, interference by Supreme Court, when warranted, explained.*]
3. **The Directorate of Enforcement v. M. Gopal Reddy and another**, 2022 SCC OnLine SC 1862 – *Supreme Court has reiterated that the conditions under Sec 45 of PMLA for grant of bail are applicable to Anticipatory bail applications under Sec 438 of CrPC as well.*
4. **Anant Thanur Karmuse v. State of Maharashtra** 2023 SCC OnLine SC 180 [*Victim has a Fundamental Right of fair investigation and fair trial. Therefore, mere filing of the chargesheet and framing of the charges cannot be an impediment in ordering further investigation/ re-investigation/ de-novo investigation, if the facts so warrant.*]
5. **Totaram v. State of MP** 2023 SCC OnLine SC 194 [*prima facie, no justification for the High Court to call for an explanation from the trial judge for having granted bail. Such orders of the High Court seriously affect the independence of the district judiciary in considering applications for bail in appropriate cases.*]
6. **Rana Ayyub v. Directorate of Enforcement through Its Assistant Director** 2023 SCC OnLine SC 109 [*The provisions of the Cr.P.C. are applicable to all proceedings under the Act including proceedings before the Special Court, except to the extent they are specifically excluded. Hence, Section 71 of the PMLA providing an overriding effect, has to be construed in tune with Section 46(1) and Section 65. (Para 28-29)*]
7. **Rohan Dhungat etc. v. State of Goa**, 2023 SCC OnLine SC 16, [*The question of law raised and settled by the apex court was - "[W]hether the period of parole is to be excluded from the period of sentence?". The object and purpose of parole was considered by the courts. While explaining "imprisonment" the court held that "term of imprisonment is not included in the computation of term of parole".*]

8. **State v. T. Gangi Reddy**, 2023 SCC OnLine SC 25 [The Supreme Court held that release of an accused person on default bail will not act as an absolute bar to consider a plea for cancellation of bail on merits after presentation of chargesheet.]
9. **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.]
10. **Jagjeet Singh v. Ashish Mishra**, 2022 SCC Online SC 453 [If the right to file an appeal against acquittal, is not accompanied with the right to be heard at the time of deciding a bail application, the same may result in grave miscarriage of justice. Victims certainly cannot be expected to be sitting on the fence and watching the proceedings from afar, especially when they may have legitimate grievances. It is the solemn duty of a court to deliver justice before the memory of an injustice eclipses.]
11. **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.]
12. **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]
13. **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.]
14. **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.]
15. **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 ratiōne 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”]
16. **Sunil Kumar v. State of Bihar**, (2022) 3 SCC 245 [**Bail**: Principles summarized regarding considerations to be balanced while deciding to grant bail.]
17. **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.]

18. **Arvind Kumar v. State of Rajasthan**, 2021 SCC OnLine SC 1099 [“The principle that when a witness deposes falsehood, the evidence in its entirety has to be eschewed may not have strict application to the criminal jurisprudence in our country.”]
19. **Achhar Singh v. State of H.P.**, (2021) 5 SCC 543 [The Supreme Court went into detail about criminal jurisprudence. “there is no gainsaid that homicidal deaths cannot be left to *judicium dei* (The judgment of God). The solemn responsibility of court is to ascertain the authenticity. The benefit of the doubt is only granted when the court, through its best efforts, is unable to draw a definite conclusion.]
20. **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?]
21. **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.]
22. **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.]
23. **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.]
24. **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.]
25. **Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra**, 2021 SCC OnLine SC 315 [blanket direction by the High Court restraining the IO from taking coercive measures against respondent-accused, directed to be stayed, because the respondents found protected by an interim stay of arrest by the Sessions Court.]
26. **Gangadhar v. State of M.P.**, (2020) 9 SCC 202 [The court acquitted the man accused in possession of 48Kgs 200gms of ganja(Cannabis) and held that Right to fair Investigation is a Right to Fair Trial guaranteed to accused under Article 21 of the Constitution of India.
27. **M. Subramaniam v. S. Janaki**, (2020) 16 SCC 728 [held that the High Court could not have directed the registration of an FIR with a direction to the police to investigate and file the final report while exercising jurisdiction under Art 226 in view of the judgment in *Sakiri Vasu v. State Of Uttar Pradesh And Others* {(2008) 2 SCC 409} .]
28. **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.]
29. **Vinubhai Haribhai Malaviya & Ors. v. State of Gujarat & Anr.**, 2019 SCC OnLine SC 1346 [It held that courts had the power to order a further investigation if the circumstances so arose, up till the time charges were framed in

a case. The legal basis for this power was located in Sections 156(3) and Section 173(8) of the Cr.P.C. Thus, accused persons have a right to file applications under Section 156(3) read with Section 173(8) of the Cr.P.C., for orders directing police to investigate certain aspects of a case to ensure that no material remains hidden from a court and justice can be done.]

30. **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]
31. **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.]
32. **Social Action Forum for Manav Adhikar v. Union of India**, (2018) 10 SCC 443 [Directions Regarding The Registration Of Fir, Arrest And Bail In Cases Under Section 498-A IPC Reiterated And Modified]
33. **Mahender Chawla & Ors. v. Union of India & Ors.**, 2018 SCC Online SC 3155 [The Court directed the Union of India, as well as States and Union Territories, shall enforce the Witness Protection Scheme, 2018. The Court directed that it shall be the 'law' under Article 141/142 of the Constitution until a suitable legislation is enacted on the subject. In line with the aforesaid provisions contained in the Scheme, in all the district courts in India, vulnerable witness deposition complexes shall be set up by the States and Union Territories.]
34. **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.]
35. **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]
36. **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.”]
37. **Ajay Singh v. State of Chhattisgarh**, 2017 SCC OnLine SC 24 [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.]
38. **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]
39. **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.]

40. **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.]
41. **State of Haryana v. Ram Mehar and others**, (2016) 8 SCC 762 [Arithmetical approach in allowing recall of witness can be dangerous]
42. **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.]
43. **Youth Bar Association of India v. Union of India**, (2016) 9 SCC 473 [The Supreme Court held that an accused is entitled to a copy of the FIR before the stage of disclosure arises under Section 207 of the Cr.P.C. Towards this, the person can make an application seeking a copy before the concerned police station or court, and she must be supplied with a copy of the FIR within 24 hours (if from police) and within 2 working days (if from court). The Court also directed all state police agencies to upload FIRs online. At the same time, it recognised exceptions if an officer of the level of a Deputy Superintendent of Police decided that a specific FIR was “sensitive” (as it is illustratively explained in the judgment). For such cases, disclosure of the FIR becomes an issue of official discretion, and the police were directed to constitute a committee to handle requests for sharing the FIR which had been initially deemed “sensitive”.]
44. **Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage**, (2016) 6 SCC 277 [Criminal Procedure Code, 1973 — Ss. 154, 156(1) & (3) and 36 — Non-registration of FIR or improper investigation by police — Remedy in matters of: Remedy in such matters does not lie before High Court under Art. 226 of Constitution but before Magistrate concerned under S. 156(3) CrPC. If on an application under S. 156(3) CrPC, Magistrate is prima facie satisfied, he can: (i) direct registration of FIR, (ii) if FIR has already been registered, issue a direction for proper investigation to be made, which includes, if he deems it necessary, recommending change of investigating officer, and can also (iii) monitor the investigation.]
45. **S. Nambi Narayanan v. Siby Mathews**, (2015) 14 SCC 664 [The Court asserted that the right to reputation is an inseparable part of the right to life, and is protected by the Constitution of India. ‘Custodial torture’ is a naked violation of human dignity and degradation which destroys, to a very large extent, the individual personality. It is a calculated assault on human dignity and whenever human dignity is wounded, civilisation takes a step backward – flag of humanity must on each such occasion fly half-mast. The right to the enjoyment of a private reputation, unassailed by malicious slander is of ancient origin, and is necessary to human society. A good reputation is an element of personal security, and is protected by the Constitution equally with the right to the enjoyment of life, liberty, and property.]
46. **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.]
47. **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.]
48. **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.]
49. **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.]

50. **Ashok Debbarma @ Achak Debbarma v. State of Tripura** (2014) 4 SCC 747 [*the concept of residual doubt was considered*]
51. **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*]
52. **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.*]
53. **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.*]
54. **Lalita Kumari v. Govt. of U.P.**, (2014) 2 SCC 1 [*Cognizable offence - Receipt of information - Police officer - Foremost duty - Present reference moved seeking to direct Police Officers to register FIR as their foremost duty on receiving complaint about cognizable offence - Whether a police officer is bound to register First Information Report (FIR) upon receiving any information relating to commission of a cognizable offence under Section 154 of Code of Criminal Procedure, 1973 - Whether a police officer has power to conduct a "preliminary inquiry" in order to test veracity of such information before registering FIR*]
55. **Arnesh Kumar v. State of Bihar**, (2014) 8 SCC 273 [*while discussing the apprehensions about the arrests falling under Section 498-A of IPC, the Court ordered that no arrests will be made automatically in cases under Section 498-A. The Supreme Court also mentioned the data by the National Crime Records Bureau (NCRB) which showed that 1,97,762 persons all over India were arrested under 498-A of the IPC in 2012 showing a rise of about 9.4 % compared to the previous year among which 47,951 are women which depicts the sisters and mother of the husband are casually included in the arresting net. Thus, the court concluded that there is a need for caution in the exercise of the power of arrest vested in the police.]*]
56. **Adambhai Sulemanbhai Ajmeri v. State of Gujarat**, (2014) 7 SCC 716 [*Supreme Court expressed "anguish about the incompetence with which the investigating agencies conducted the investigation of the case of such a grievous nature, involving the integrity and security of the Nation. Instead of booking the real culprits responsible for taking so many precious lives, the police caught innocent people and got imposed the grievous charges against them which resulted in their conviction and subsequent sentencing."*]
57. **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.]*]
58. **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.]*]

59. **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.]
60. **Babubhai v. State of Gujarat**, (2010) 12 SCC 254 [The Supreme Court stated as follows: “Not only fair trial but fair investigation is also part of constitutional rights guaranteed under Articles 20 and 21 of the Constitution of India. Therefore, investigation must be fair, transparent and judicious as it is the minimum requirement of rule of law. The investigating agency cannot be permitted to conduct an investigation in a tainted and biased manner. Where non-interference of the court would ultimately result in failure of justice, the court must interfere. In such a situation, it may be in the interest of justice that independent agency chosen by the High Court makes a fresh investigation”]
61. **Ankush Maruti Shinde v. State of Maharashtra**, (2009) 6 SCC 667 [Supreme Court held that “imposition of sentence without considering its effect on the social order in many cases may be in reality a futile exercise.”]
62. **Nirmal Singh Kehlon vs. State of Punjab**, (2009) 1 SCC 441 [the Supreme Court said: “An accused is entitled to a fair investigation. Fair investigation and fair trial are concomitant to preservation of fundamental right of an accused under Article 21 of the Constitution of India. But the State has a larger obligation i.e. to maintain law and order, public order and preservation of peace and harmony in the society. A victim of a crime, thus, is equally entitled to a fair investigation.”]
63. **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.]
64. **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.]
65. **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.]
66. **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.]
67. **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.]
68. **Prem Chand v. Union of India**, (1981) 1 SCC 639 [Justice V.R. Krishna Iyer wrote: “In justice, justices and justicing and likewise in the police and policing, the peril to the judicial process is best left to imagination if professional perjurers like the self-confessed ‘paniwala’ are kept captive by the police, to be pressed into service for proving ‘cases’. Courts, trusting the police may act on apparently veracious testimony and sentence people into prison. The community, satisfied with such convictions, may well believe that all is well with law and order. We condemn, in the strongest terms, the systematic pollution of the judicial process and the consequent threat to human rights of innocent persons.”]
69. **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.]

70. **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.]
71. **Shyam Singh v. State of Rajasthan** 1973 CrL 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.]
72. **State of Uttar Pradesh vs. Bhagwant Kishore Joshi**, AIR 1964 SC 221 [“Investigation, in substance, means collection of evidence relating to the commission of the offence. The Investigating Officer is, for this purpose, entitled to question persons who, in this opinion, are able to throw light on the offence which has been committed and is likewise entitled to question the suspect and is entitled to reduce the statements of persons questioned by him to writing. He is also entitled to search the place of the offence and to search other places with the object of seizing articles connected with the offence. No doubt, for this purpose he has to proceed to the spot where the offence was committed and do various other things. But the main object of investigation being to bring home the offence to the offender the essential part of the duties of an investigating officer in this connection is, apart from arresting the offender, to collect all material necessary for establishing the accusation against the offender. Merely making some preliminary enquire upon receipt of information from an anonymous source or a source of doubtful reliability for checking up the correctness of the information does not amount to collection of evidence and so cannot be regarded as investigation”]

SESSION 10 JUDGE AS THE MASTER OF THE COURT: COURT & CASE MANAGEMENT		
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CASE LAW

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

1. ***In Re: To Issue Certain Guidelines Regarding Inadequacies and Deficiencies In Criminal Trials v. The State of Andhra Pradesh & Ors.***, (2021) 10 SCC 598 [*After noticing common deficiencies which occur in the course of criminal trials and certain practices adopted by trial courts in criminal proceedings as well as in the disposal of criminal cases and causes directed all High Courts to take expeditious steps to incorporate the Draft Rules of Criminal Practice, 2021 as part of the rules governing criminal trials, and ensure that the existing rules, notifications, orders and practice directions are suitably modified, and promulgated (wherever necessary through the Official Gazette) within 6 months.*]
2. ***All India Judges’ Association v. UoI***, (2018) 17 SCC 555 [*Sound infrastructure is vital for strong and stable judicial system. It is imperative for State to provide requisite infrastructure to judiciary- Poor infrastructure causes impediments in access to justice – Democracy cannot afford to undermine core values of Rule of Law. Adequacy of judicial resources/infrastructure- stages in court development, set out- necessary facilities to be part of a court complex, listed- handling of financial; and budgeting matters, enumerated- Further directions in providing court infrastructure, issues.*]
3. ***Krishnakant Tamrakar v. State of Madhya Pradesh***, (2018) 17 SCC 27 [*The Court observed that there is a need to revisit decongestion of constitutional courts possibility of five year old cases pending in the High Courts particularly the criminal appeals within the existing system*]
4. ***Hussain v. UoI***, (2017) 5 SCC 702 [*Bail applications be disposed of normally within one week;*] [*Deprivation of personal liberty without ensuring speedy trial is not consistent with Article 21. While deprivation of personal liberty for some period may not be avoidable, period of deprivation pending trial/appeal cannot be unduly long. This Court has held that while a person in custody for a grave offence may not be released if trial is delayed, trial has to be expedited or bail has to be granted in such cases [Supreme Court Legal Aid Committee (Representing Undertrial Prisoners) v. Union of India, (1994) 6 SCC 731, para 15 : 1995 SCC (Cri) 39] Shaheen Welfare Association v. Union of India (1996) 2 SCC 616]*]
5. ***Imtiyaz Ahmed v. State of Uttar Pradesh*** (2017) 3 SCC 658 [*The Supreme Court took note of the huge pendency of cases and issued certain guidelines regarding the clearing of arrears, timely disposal, pretrial custody issues, trial date certainty, etc. and suggested the application of the “unit system” which allocates different units for disposal of different cases. Such Unit system should be then applied to assess the required judge strength*]
6. ***Surjit Singh v. Gurwant Kaur***, (2015) 1 SCC 665 [*It has been held by the Apex Court that exercise of power under Order 41 Rule 27 C.P.C. is circumscribed by limitation specified in the language of the Rule and it is duty of the Court to come to a definite conclusion that it is really necessary to accept the document as additional evidence to enable it to pronounce the judgment and in case Appellate Authority is able to pronounce the judgment with material before it without taking in to consideration the additional evidence sought to be adduced, the application for additional evidence is liable to be rejected.*]
7. ***Kishore Samrite v. State of Uttar Pradesh***, (2013) 2 SCC 398 [*The Apex Court held that the party not approaching the court with clean hands would be liable to be non-suited and such party, who has also succeeded in polluting the stream of justice by making patently false statements, cannot claim relief specifically under Art. 136 of the*

Constitution. The person seeking equity must do equity. It is not just the clean hands, but also clean mind, clean heart and clean objective that are the equi-fundamentals of judicious litigation.]

8. **Rameshwari Devi v. Nirmala Devi**, (2011) 8 SCC 249 [*The court laid down guidelines which the courts should adopt in preventing prolonged litigation and also cautioning courts on the grant of indiscriminate ex parte orders.]*
9. **In Re: Children in Street Situations**, 2022 SCC OnLine SC 189 [*Standard Operating Procedure for recording evidence of children through video conferencing to be followed in all criminal trials where child witnesses, not residing near Court Points, are examined and not physically in the courts where the trial is conducted. Remote Point Coordinators to ensure that child-friendly practices are adopted during the examination of the witnesses.]*
10. **In Re. Guidelines for Court Functioning Through Video Conferencing During Covid-19 Pandemic**, (2021) 5 SCC 454 [*The Video Conferencing in every High Court and within the jurisdiction of every High Court shall be conducted according to the Rules for that purpose framed by that High Court. High Courts that have not framed such Rules shall do so having regard to the circumstances prevailing in the State. Till such Rules are framed, the High Courts may adopt the model Video Conferencing Rules provided by the eCommittee, Supreme Court of India to all the Chief Justices of the High Court.]*
11. **Arnab Manoranjan Goswami v. The State of Maharashtra**, (2021) 2 SCC 427 [*The NJDG is a valuable resource for all High Courts to monitor the pendency and disposal of cases, including criminal cases. For Chief Justices of the High Courts, the information which is available is capable of being utilized as a valuable instrument to promote access to justice, particularly in matters concerning liberty. The Chief Justices of every High Court should in their administrative capacities utilize the ICT tools which are placed at their disposal in ensuring that access to justice is democratized and equitably allocated. Administrative judges in charge of districts must also use the facility to engage with the District judiciary and monitor pendency.]*
12. **In Re: Guidelines For Court Functioning Through Video Conferencing During COVID-19 Pandemic**, (2020) 6 SCC 686 [*The Supreme Court of India and all High Courts are authorized to adopt measures required to ensure the robust functioning of the judicial system through the use of video conferencing technologies. The District Courts in each State shall adopt the mode of Video Conferencing prescribed by the concerned High Court. Courts shall duly notify and make available the facilities for video conferencing for such litigants who do not have the means or access to video conferencing facilities. Video conferencing shall be mainly employed for hearing arguments whether at the trial stage or at the appellate stage. In no case shall evidence be recorded without the mutual consent of both the parties by video conferencing. Virtual Courts in the Covid-19 Pandemic - Held, every High Court is authorised to determine the modalities which are suitable to the temporary transition to the use of video conferencing technologies. All measures taken for functioning of courts in xxxvii consonance with social distancing guidelines and best public health practices shall be deemed to be lawful]*
13. **Swapnil Tripathi v. Supreme Court of India**, (2018) 10 SCC 639 [*Directions regarding Livestreaming of court proceedings - Held, virtual access of live court proceedings will effectuate the right of access to justice or right to open justice and public trial, right to know the developments of law and including the right of justice at the doorstep of the litigants., live streaming of court proceedings in the prescribed digital format would be an affirmation of the constitutional rights bestowed upon the public and the litigants in particular. Sensitive cases, matrimonial matters, matters relating to children not to be livestreamed. Discretion of the judge to disallow live-streaming for specific cases where publicity would prejudice the interests of justice.]*
14. **Pradyuman Bisht v. Union of India**, (2018) 15 SCC 433 [*Directions for installation of CCTV Cameras in court complexes]*
15. **State of Maharashtra and P.C. Singh v. Praful B. Desai**, (2003) 4 SCC 601 [*Whether evidence can be recorded by video-conferencing?--`Held, "yes"--`Presence' in Section 273 is not actual physical presence--`Under Section 3 of Evidence Act, evidence, even in criminal matters, can also be by way of electronic records--`This would include video-conferencing--`Court can consider issuing commission to record evidence by way of video-conferencing--`However, cost of video-conferencing to be borne by State.]*

SESSION 11 RATIO OF A PRECEDENT: AN ANALYSIS		
1	Justice R.V. Raveendran, <i>Precedents – Boon or Bane?</i> in ANOMALIES IN LAW AND JUSTICE, 363 (Eastern Book Company, 2021)	
2	Mohan Parasaran, <i>How to Comprehend Precedents</i> , (2016) 2 SCC J-28	
3	Chintan Chandrachud, <i>The Precedential Value of Solitary High Court Rulings in India: Carving an Exception to the Principle of Vertical Stare Decisis</i> , Lawasia Journal 25 (2011).	
4	Henry Campbell Black, <i>Interpretation of Judicial Decisions and The Doctrine of Precedents</i> in CONSTRUCTION AND INTERPRETATION OF THE LAWS, Indian Economy Reprint, 2023 (New Delhi, Law & Justice Publishing Co.)	
5	Benjamin N. Cardozo, <i>Adherence to Precedent – The Subconscious Element in the Judicial Process</i> in THE NATURE OF THE JUDICIAL PROCESS, 142 (Oxford University Press , 1928)	
6	Bryan A. Garner, <i>Weight of Decisions</i> in THE LAW OF JUDICIAL PRECEDENT, Thomas Reuters, United States (2016), pp. 155-175	
7	S.P. Gupta & Rahul Agarwal, <i>Doctrine of Precedent and Stare Decisis in India</i> , (2009) 3 SCC (J)	
8	Heward, Edmund (2003), <i>Precedent</i> , Lord Denning: A biography, 2 nd edition Universal Law Publishing.	
	<p><u>Additional References:</u></p> <ol style="list-style-type: none"> 1. V Sudhish Pai, <i>Precedents – Scope and Limits</i> in THE CONSTITUTIONAL SUPREMACY: A REVISIT, OakBridge Publishing Pvt. Ltd. (2019) pp. 35-54 2. Prof. Dr. A. Lakshminath, <i>Stare Decisis in the Indian Courts – Institutional Aspects</i> in JUDICIAL PROCESS – PRECEDENT IN INDIAN LAW, 3rd Edn. 13 (Eastern Book Company, 2009) 3. Mark Alan Thurmon, <i>When the Court Divides: Reconsidering the Precedential Value of Supreme Court Plurality</i>, Duke Law Journal, Vol. 42, No. 2 (Nov. 1992), pp. 419-468 <p>Rupret Cross, J. W. Harris, <i>Ratio Decidendi and Obiter Dictum</i> in PRECEDENT IN ENGLISH LAW, Clarendon Press (1991) pp. 52-52, 63-71</p>	
CASE LAW		
<i>(Judgments mentioned below include citations and short notes for reference. Please refer full judgment for conclusive opinion)</i>		
<ol style="list-style-type: none"> 1. <i>Govt. of NCT of Delhi through Sect. Land & Building Dept. v. M/s. K.L. Rathi Steels Ltd. & Ors. ... [Whether the subsequent overruling of a precedent relied on in a judgment a ground to review it]</i> 2. <i>Trimurthi Fragrances (P) Ltd. v. Government of N.C.T. of Delhi</i>, 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.] 		

3. **Gregory Patrao v. Mangalore Refinery & Petrochemicals Ltd.**, 2022 SCC OnLine SC 830 [Subsequent Supreme Court Decisions which have considered & distinguished earlier judgments are binding on High Courts]
4. **Ramesh Bhavan Rathod v. Vishanbhai Hirabhai Makwana** (2021) 6 SCC 230, [The bench noted that “the observation that order shall not be considered as a precedent for any other person who is accused in the FIR on the grounds of parity does not constitute judicially appropriate reasoning.” It was emphasised that whether an order is a precedent or not is a matter of future adjudication, and the observation of the judge ‘caveating’ the order was inappropriate and erroneous.]
5. **Union of India v. R. Thyagarajan**, (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.]
6. **Shah Faesal v. Union of India**, (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.]
7. **S.E. Graphites (P) Ltd. v. State of Telangana**, (2020) 14 SCC 521 [Even Brief Judgments Of Supreme Court Passed After Grant Of Special Leave Are Binding Precedents]
8. **Kaikhosrou (Chick) Kavasji Framji v. Union of India**, (2019) 20 SCC 705 [Views in Lead Judgment are binding precedents if concurring judgments did not express any contrary opinion on it.
9. **M/s Bhati v. National Insurance Co. Ltd.**, (2019) 12 SCC 248 [The law laid down by a three Judge Bench of Supreme Court in Mukund Dewangan vs 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.]
10. **State of Gujarat v. Utility Users Welfare Association**, (2018) 6 SCC 21 [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.]
11. **State of U.P. v. Ajay Kumar Sharma**, (2016)15 SCC 289 [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.]
12. **Vedica Procon Pvt. Ltd. v. Baleshwar Green (Pvt.) Ltd.**, (2015) 10 SCC 94 [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 & Sons v. Sri Ramanya Das & Others, (1969) 3 SCC 537 and Divya Manufacturing Company (P) Ltd. v. Union Bank of India & Others, (2000) 6 SCC 69, observing that in the latter case, the Supreme Court departed from the principle laid down in 1969 case unnecessarily, thus 11969 case followed.
13. **Hyder Consulting (UK) Ltd. v. State of Orissa**, (2015) 2 SCC 189 [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.]
14. **Sundeep Kumar Bafna v. State of Maharashtra**, (2014) 16 SCC 623 [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]
15. **Rajbir Singh Dalal (Dr.) v. Chaudhari Devilal University, Sirsa & Anr.**, (2008) 9 SCC 284 [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.]

16. **Union of India v. Major Bahadur Singh**, (2006) 1 SCC 368 [*Judges interpret statutes, they do not interpret judgments. They interpret words of statutes; their words are not to be interpreted as statutes*]
17. **State of Haryana v. Ranbir**, (2006) 5 SCC 167 [*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*]
18. **Central Board of Dawood Bohra Com v. State of Maharashtra**, (2005) 2 SCC 673 [*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.*]
19. **State of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat**, (2005) 8 SCC 534 [*The trend of judicial opinion, in our view, is that stare decisis is not a dogmatic rule allergic to logic and reason; it is a flexible principle of law operating in the province of precedents providing room to collaborate with the demands of changing times dictated by social needs, State policy and judicial conscience. Stare decisis is not an inexorable command of the Constitution or jurisprudence. A careful study of our legal system will discern that any deviation from the straight path of stare decisis in our past history has occurred for articulable reasons, and only when the Supreme Court has felt obliged to bring its opinions in line with new ascertained facts, circumstances and experiences. (Precedent in Indian Law, A. Laxminath, 2nd Edn. 2005, p. 8.) The doctrine of stare decisis is generally to be adhered to, because well-settled principles of law founded on a series of authoritative pronouncements ought to be followed. Yet, the demands of the changed facts and circumstances, dictated by forceful factors supported by logic, amply justify the need for a fresh look.] [Refer paras 110-119 on Stare Decisis]*
20. **Union of India v. Amritlal Manchanda**, AIR 2004 SC 1625 [*The Courts should not place reliance on the decisions without discussing as to how the situation fits in with the factual situation. Circumstantial flexibility, one addition or a different fact, makes a difference between conclusions in two cases.*]
21. **Megh Singh v. State of Punjab**, (2003) 8 SCC 666 [*Circumstantial flexibility, one additional or different fact may make a world of difference between conclusion 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.*]
22. **Suganthi Suresh Kumar v. Jagdeeshan**, (2002) 2 SCC 420 [*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.*]
23. **State of Bihar v. Kalika Kuer**, (2003) 5 SCC 448 [*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.*]
24. **Director of Settlements A.P. & Ors. v. M.R. Apparao & Ors**, (2002) 4 SCC 638 [*An obiter may not have a binding precedent as the observation was unnecessary for the decision pronounced, but even though an obiter may not have a bind effect as a precedent, but it cannot be denied that it is of considerable weight. The law which will be binding under Article 141 would, therefore, extend to all observations of points raised and decided by the Court in a given case.]*
25. **Delhi Administration (Now NCT of Delhi) v. Manohar Lal**, (2002) 7 SCC 222 [*The court said that the ratio decidendi had 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”.]

26. **Vishnu Traders v. State of Haryana**, 1995 Supp (1) SCC 461 [*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.*]
27. **Hari Singh v. State of Haryana**, (1993) 3 SCC 114 [*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.*]
28. **CIT v. M/s Sun Engineering**, AIR 1993 SC 43 [*The Apex court held that, “While applying the decision to a later cases, the court must carefully try to ascertain the true principle laid down by the decision of the Supreme Court and not to pick out words or sentences from the judgment divorced from the context of question under consideration by the court to support their reasoning.”*]
29. **Krishena Kumar v. Union of India**, (1990) 4 SCC 207 [*The doctrine of precedent, that is, 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.*]
30. **Union of India v. Raghubir Singh**, AIR 1989 SC 1933 [*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 a changing society, a re-adjustment of legal norms demanded by a changed social context.*]
31. **Empire Industries Ltd. v. Union of India**, (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.*]
32. **Waman Rao & Ors v. Union of India**, (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.*]
33. **Valliamma Champaka Pillai V. Siuvathanu Pillai**, (1979) 4 SCC 429 [*It was held that the decision of one High Court is not binding precedent upon another High Court and at best can only have persuasive value. However, at the cost of repetition we must emphasize that the decision of another High Court rendered in the context of an all India Act would have persuasive value and normally to maintain uniformity and certainty we would adopt the view of the High Court*]
34. **Commissioner of Income Tax v. Godavari Devi Saraf**, 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.*]
35. **Regional Manager v. Pawan Kumar Dubey**, (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.]

36. **State of Orissa v. Sudhansu Sekhar Misra**, (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.]
37. **K.T.M.T.M. Abdul Kayoom v. CIT**, 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.]
38. **East India Commercial Co., Ltd., Calcutta & Ors v. Collector of Customs, Calcutta**, 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.]
39. **State of Gujarat vs Gordhandas Keshavji Gandhi And others**, AIR 1962 Guj 128 [The principles of judicial comity and legal propriety require, in order to avoid conflict of authority and to secure certainty, uniformity and continuity in the administration of justice, that one Judge of a High Court sitting singly should follow the decision of another Judge of the same High Court sitting singly, and that a Division Bench of a High Court should follow another Division Bench of the same High Court, that a decision of a Full Bench consisting of the same number of Judges should follow the decision of a Full Bench of equal number of Judges and that a decision of a larger Full Bench should be considered authoritative and binding on all other benches constituted of a lesser number of judges.
40. **Mahadeolal Kanodia v. Administrator General of West Bengal**, AIR 1960 SC 936 [Judicial decorum no less than legal propriety forms the basis of judicial procedure. If one thing is more necessary in law than any other thing, it is the quality of certainty. That quality would totally disappear if judges of co-ordinate jurisdiction in a High Court start overruling one another's decisions. If one Division Bench of a High Court is unable to distinguish a previous decision of another Division Bench, and holding the view that the earlier decision is wrong, itself gives effect to that view, the result would be utter confusion. The position would be equally bad where a judge sitting singly in the High Court is of opinion that the previous decision of another single judge on a question of law is wrong and gives effect to that view instead of referring the matter to a larger Bench.] (refer paras 19 & 20)
41. **Atma Ram v. State of Punjab**, AIR 1959 SC 519. (page 527) [...the better course would have been to constitute a larger Bench, when it was found that a Full Bench of three Judges, was inclined to take a view contrary to that of another Full Bench of equal strength. Such a course becomes necessary in view of the fact that otherwise the subordinate Courts are placed under the embarrassment of preferring one view to another both equally binding upon them."
42. **Bengal Immunity Co Ltd vs. the State of Bihar**, AIR 1955 SC 661 [the question of whether the Supreme Court is bound by its judgment under Article was challenged. In that instance, it was determined that the Supreme Court is not bound by its earlier decision and is free to reconsider it in appropriate cases. When two Supreme Court decisions disagree, the decision of the larger Bench takes precedence over the decision of the smaller Bench. This principle applies to High Courts as well.]

SESSION 12 LANDMARK JUDGMENTS: CELEBRATING DECADAL MASTERPIECES		
1.	B.M. Gandhi, <i>Landmark Decisions</i> , in VD Kulshrestha's LANDMARKS IN INDIAN LEGAL AND CONSTITUTIONAL HISTORY, Wadhwa Company (2011) pp. 494-523	1991
RECENT LANDMARK CASES (Judgments mentioned below include citations and short notes for reference. Please refer full judgment for conclusive opinion)		
<ol style="list-style-type: none"> 1. Anoop Baranwal v. UoI, 2023 SCC OnLine SC 216 [The Apex Court made a fervent appeal to the Union of India/Parliament to consider bringing in the necessary changes so that the Election Commission of India becomes truly independent. The Constitution bench noted that there is an urgent need to provide for a permanent Secretariat (for ECI) and also to provide that the expenditure be charged on the Consolidated Fund of India. However, the Court said that it is a matter of policy and refrained from passing any categorical directions in that regard.] 2. Common Cause (A Regd. Society) v. Union of India, 2023 SCC OnLine SC 99 [Concerned with the question as to whether even in the absence of Advance Directives, when a person is faced with a medical condition with no hope of recovery and is continued on life support system/medicines, life support system should be withdrawn. The Court went on to dwell on the right of a person to die with dignity. Supreme Court laid down the directives] 3. Vivek Narayan Sharma v. Union of India, 2023 SCC OnLine SC 1 [Demonetisation Judgment] [The Supreme Court identified six issues in the challenge to the government's demonetisation decision. Both the majority judgment and the dissent gave their views on each of these issues.] 4. S. G. Vombatkere v. Union of India, (2022) 7 SCC 433 [The Court while dealing with the petitions challenging the constitutionality of Section 124-A of the Penal Code, 1860 which deals with offence of "sedition", has directed that all pending trials, appeals and proceedings with respect to the charge framed under the said section be kept in abeyance. The Supreme Court also urged the State and Central Governments to restrain from registering any FIR under Section 124-A IPC till the Court decides the provision's constitutional validity.] 5. Union of India v. Mohit Minerals (P) Ltd., 2022 SCC OnLine SC 657 [Cooperative and Collaborative Federalism] 6. Janhit Abhiyan v Union of India, 2022 SCC OnLine SC 1540 [Court upheld the constitutional validity the Constitution (One Hundred and Third Amendment) Act, 2019, which provides for 10 percent reservation in appointments to posts under the State and in admissions to educational institutions to economically weaker sections ('EWS') of citizens.] 7. Aishat Shifa vs The State of Karnataka, 2022 SCC OnLine SC 1394 [Hijab Case] [A two-judge bench of the Supreme Court delivered a split opinion on an appeal against a Karnataka High Court decision upholding a state order that mandated a uniform for educational institutions, consequently banning the hijab. Writing for the Court, Justice Gupta affirmed the High Court's decision, while Justice Dhulia decided in favor of the appellants.] 8. Mohd. Firoz v. State of MP, (2022) 7 SCC 443, [The maximum punishment prescribed may not always be the determinative factor for repairing the crippled psyche of the offender. Hence while balancing the scales of retributive justice and restorative justice, we deem it appropriate to impose upon the appellant-accused the sentence of imprisonment for a period of twenty years instead of imprisonment for the remainder of his natural life for the offence under Section 376A, IPC.] 9. Budhadev Karmaskar v. State of West Bengal [Supreme Court recognised sex work as a "profession" and held that consenting practitioners of sex work were entitled to dignity and equal protection under law. The Court also directed UIDAI to issue Adhar Cards to the Sex Workers based on a proforma certificate and using its inherent powers under Article 142 of the Constitution, issued a few directions for the rehabilitation measures in respect of sex workers] 		

10. **State of Jharkhand v. Shailendra Kumar Rai**, 2022 SCC OnLine SC 1494 [The court held that the “two-finger test” or pre vaginum test must not be conducted as it has no scientific basis and neither proves nor disproves allegations of rape. It instead re-victimizes and re-traumatizes women who may have been sexually assaulted, and is an affront to their dignity.]
11. **X v. Health and Family Welfare Department**, 2022 SCC Online SC 1321 [The court held that a woman cannot be denied the right to a safe abortion only on the ground of her being unmarried. It observed that after the 2021 amendment to the Medical Termination of Pregnancy Act, 1971 (MTP Act), the phrase ‘married woman’ has been replaced by ‘any woman’ and the word ‘husband’ has been replaced by ‘partner. Which goes on to show that the legislature did not intend to leave out unmarried women from the scope of the Act. Hence, Rule 3B (c) **which provides for “change of marital status during the ongoing pregnancy” should be given purposive interpretation to include an unmarried woman who’s partner has abandoned her.** The Court said that there is no basis to deny unmarried women the right to medically terminate the pregnancy, when the same choice is available to other categories of women, especially when live-in relationships have already been recognized by the Court.]
12. **Jacob Puliyel v. Union of India**, 2022 SCC OnLine SC 533, [The court held that bodily integrity is protected under Article 21 of the Constitution of India and no individual can be forced to be vaccinated. The Court, however, cautioned that, **“This judgment is not to be construed as impeding, in any manner, the lawful exercise of power by the executive to take suitable measures for prevention of infection and transmission of the virus in public interest, which may also take the form of restrictions on unvaccinated people in the future, if the situation so warrants. Such restrictions will be subject to constitutional scrutiny to examine if they meet the threefold requirement for intrusion into rights of individuals.”**]
13. **Satender Kumar Antil v. CBI**, 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 therefor 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.]
14. **Arunachala Gounder v. Ponnusamy**, 2022 SCC OnLine SC 72 [Held that if a female Hindu dies intestate without leaving any issue, then the property inherited by her from her father or mother would go to the heirs of her father whereas the property inherited from her husband or father-in-law would go to the heirs of the husband. However, if she dies leaving behind her husband or any issue, then Section 15(1)(a) of the Hindu Succession Act, 1956 comes into operation and the properties left behind including the properties which she inherited from her parents would devolve simultaneously upon her husband and her issues as provided in Section 15(1)(a) of the Act.]
15. **Vijay Madanlal Choudhary v. Union of India**, 2022 SCC OnLine SC 929 [The court dealt with various aspects of the Prevention of Money Laundering Act, 2002 and has upheld the validity of certain impugned provisions by holding that the same have reasonable nexus with the object sought to be achieved i.e. combatting the menace of money laundering.]
16. **Aparna Bhat v. State of MP**, 2021 SCC OnLine 230 [Directions to be considered while granting bail in sexual offences]
17. **Amish Devgan v. Union of India**, (2021) 1 SCC 1 [Fraternity, diversity and pluralism assuring dignity of the individual have fundamental relationship with unity and integrity of the Nation. Speech or expression causing or likely to cause disturbance of or threats to public order, or, divisiveness and alienation amongst different groups of people, or, demeaning dignity of targeted groups, held, is against Preambular precepts, and violates dignity, liberty]

and freedom of others, particularly of the targeted groups, and poses threat to fraternity, and unity and integrity of the Nation, and must be dealt with as per law.]

18. **Firoz Iqbal Khan v. Union of India & Ors.**, (2021) 2 SCC 596 [*There should be a balance between fundamental right to free speech and expression and the fundamental right to equality and fair treatment for every segment of citizens.*]
19. **Chief Election Commissioner of India v M. R. Vijayabhaskar and Ors.** (2021) 9 SCC 770 [*Freedom of press relating to Court proceedings*]
20. **Vinod Dua v. Union of India**, 2021 SCC OnLine SC 414 [*Upheld right of the citizen to criticize the government*]
21. **K. Lakshminarayanan v. Union of India**, (2020) 14 SCC 664 [*Puducherry Assembly Concurrence of CM not required for Center to nominate member to Legislative Assembly of UTs*]
22. **Anuradha Bhasin v. Union of India**, (2020) 3 SCC 637 [*Access to Internet as a Fundamental Right*]
23. **Gopalakrishnan v. State of Kerala**, (2020) 9 SCC 161 [*Balancing of Interest between privacy of individual and the right of state to gather information in Criminal Trials*]
24. **Shrimanth Balasaheb Patil v. Karnataka Legislative Assembly**, (2020) 2 SCC 595 [*The court noted and reiterated that the Speaker, in deciding the issue of disqualification, acts as a quasi-judicial authority and his orders are amenable to judicial review.*]
25. **Roger Mathew v. South Indian Bank Ltd.**, (2020) 6 SCC 1 [*The Tribunal, Appellate Tribunal and Other Authorities (Qualifications, Experience and Other Conditions of Service of Members) Rules, 2017 formulated by the Central Government under Section 184, Finance Act, 2017 were struck down in entirety as being contrary to the parent Act and the principles envisaged in the Constitution. Directions were issued to reformulate the rules in accordance with the court's directions in earlier cases. It was held that there is a need based requirement to conduct "judicial impact assessment" of all the tribunals and such reports must be submitted to the competent legislative authority.*]
26. **Ashwani Kumar v. Union of India**, (2019) 2 SCC 636 [*Right to health of senior citizen and for allocation of old age homes*]
27. **Indian Young Lawyers Association & Ors. v. The State of Kerala**, (2019) 11 SCC 1 [*Sabrimala Case- The Supreme Court declared unconstitutional the Sabarimala Temple's custom of prohibiting women in their 'menstruating years' from entering.*]
28. **K. S. Puttaswamy v. Union of India**, (2019) 1 SCC 1 (Aadhaar) [*The mandatory linking of mobile number and Aadhar was held to be invalid. The majority upheld the provisions of the Aadhar Act holding that the law meets the test of proportionality and the requirement to furnish demographic and biometric information of individuals and the collection and storage of such data does not infringe the fundamental right to privacy. The Act was passed as a Money Bill: that was upheld. It was held that the main object of the law was to provide for various subsidies/benefits which involves expenditure, other provisions are incidental and hence covered by Art 110(1)(g)-any matter incidental to any of the matters specified in (a) to (f).*]
29. **Swaraj Abhiyan v. Union of India & Ors.** (2018) 12 SCC 170 [*Principles of Cooperative Federalism- Sovereignty divided in form of Centre and State- Centre and States often meet and interact at various levels to achieve goal of cooperative federalism – Centre is not powerless (Art.256) and it is improper on States to ignore implementation of welfare legislations enacted by Centre*]
30. **Joseph Shine v. Union of India**, (2018) 2 SCC 189 [*Decriminalization of Adultery- The Court decriminalised adultery, striking down Section 497 of the Indian Penal Code, 1860 (IPC)]*
31. **Common Cause v. Union of India and Another**, (2018) 5 SCC 1 [*Euthanasia- A Constitution Bench decided that the right to life with dignity under Article 21 includes a right to die with dignity.*]

32. **Navtej Singh Johar v. Union of India**, (2018) 10 SCC 1 [A five-judge Bench unanimously struck down Section 377 of the Indian Penal Code, to the extent that it criminalised same-sex relations between consenting adults.]
33. **Kalpna Mehta v. Union of India**, (2018) 7 SCC 1 [A 5-Judge Constitution Bench decision on vital issues relating primarily to the permissibility of the Court looking into, referring to and relying on reports of Parliamentary Committees in a litigation before the Court and whether doing so would amount to breach of any privilege of Parliament. The concept of constitutional sovereignty or constitutional supremacy and all wings being governed by and functioning under the Constitution and the existence of constitutional limitations on the exercise of all power were emphasised. The Court spoke of the complementarity of institutions and their work. Separation of powers, as a principle, constitutes the cornerstone of our democratic Constitution. But its application in the actual governance of the polity is nuanced and the significant precept is that no institution is entrusted with absolute power or is above the Constitution. It was concluded that Parliamentary Standing Committee report or any Parliamentary Committee report can be taken judicial notice of and regarded as admissible in evidence, but it cannot be challenged or its validity called in question.]
34. **S. Nambi Narayanan v. Siby Mathews**, (2018) 10 SCC 804 [The arrest was made without evidence on record regarding espionage against ISRO scientist by State Police. CBI filed a closure report and the court discharged the appellant. It was held that the appellant is entitled to compensation, even if there is no allegation of physical torture.]
35. **Independent Thought v. Union of India**, AIR 2017 SC 4904 [In this case, the principle of constitutional morality was applied to counter the prevailing societal norms, which consider women the property of men with no sexual and bodily autonomy. Constitutional morality forbids us from giving an interpretation to Exception 2 to Section 375 IPC that sanctifies a tradition or custom that is no longer sustainable.]
36. **Justice K. S. Puttaswamy (Retd.) v. Union of India**, (2017) 10 SCC 1 [The nine Judge Bench in this case unanimously reaffirmed the right to privacy as a fundamental right under the Constitution of India. The Court held that the right to privacy was integral to freedoms guaranteed across fundamental rights, and was an intrinsic aspect of dignity, autonomy and liberty.]
37. **Shayara Bano v. Union of India**, (2017) 9 SCC 1 [The practice of talaq-e-biddat or instantaneous triple talaq is unconstitutional.]
38. **Abhiram Singh vs C.D. Commachen**, (2017) 2 SCC 629 [A 7-Judge Bench decided the implication of 'his' in Sec. 123(3) of the Representation of the People Act, 1951-*ie*, appeal for vote on the basis of 'his' religion, race, caste, community or language. The leading judgment and the two separate concurring judgments held that 'his' is not confined to the candidate but takes within its sweep appeal by a candidate, his agent or any other person with the consent of the candidate, his agent or the elector. The minority view very convincingly expressed that 'his' refers only to the candidate or the rival candidate in whose favour an appeal to cast a vote is made or of another against whom an appeal to refrain from voting is made.]
39. **Subramanian Swamy v. Union of India (UOI), Ministry of Law**, (2016) 7 SCC 221 [The Court upheld the constitutionality of the criminal offence of defamation under Sections 499 and 500 of the Indian Penal Code.]
40. **Nabam Rebia v. Deputy Speaker**, (2016) 8 SCC 1 [The Supreme Court settled the question of governor's discretion and the 'scope' of judicial review over governor's functions.]
41. **Supreme Court Advocates on Record Association v. Union of India**, (2016) 5 SCC 1 [This case is popularly known as the second judges' transfer case where the majority overruled SP Gupta case and held that the in the matter of appointment of judges of the Supreme Court and High Court Chief Justice of India should be given importance. The court also laid down detailed guidelines governing the appointment and transfer of judges and ruled that Chief Justice of India should be appointed based on seniority. The Supreme Court had clearly held that no appointment of any judge to the Supreme Court or any High Court can be made unless it is in conformity with the opinion of Chief Justice of India.]
42. **Jeeja Ghosh v. Union of India**, (2016) 7 SCC 761 [Held that the rights that are guaranteed to differently abled persons under the PWD Act are founded on the sound principle of human dignity which is the core value of human

right and is treated as a significant facet of right to life and liberty. Such a right now treated as human right of the persons with disability has its roots in Article 21 of the Constitution.]

43. **National Legal Services Authority v. Union of India and others**, AIR 2014 SC 1863 [*The Supreme Court declared transgender people the 'third gender', affirmed that the fundamental rights granted under the Constitution of India will be equally applicable to them, and gave them the right to self-identification of their gender as male, female or third gender.*]
44. **Aruna Ramchandra Shanbaug v. Union of India**, (2011) 4 SCC 524 [*The Court while delivering the judgment distinguished between active and passive euthanasia. It observed that causing the death of a person who is in 'persistent vegetative state' with no chance of recovery, by withdrawing artificial life support is not a "positive act of killing" which couldn't be allowed considering the facts of each case. The withdrawal of life support by doctors is considered as an omission & not a positive step to terminate life.]*
45. **Naz Foundation v Government of NCT and Ors.**, 2009 SCC OnLine Del 1762 [*The Court differentiated public morality and constitutional morality - Popular morality, as distinct from a constitutional morality derived from constitutional values, is based on shifting and subjecting notions of right and wrong. If there is any type of "morality" that can pass the test of compelling state interest, it must be "constitutional" morality and not public morality.] [In our scheme of things, constitutional morality must outweigh the argument of public morality, even if it be the majoritarian view.]*
46. **Chandresh Marskole v. The State of Madhya Pradesh**, Criminal Appeal No. 1580/2009 [*The High Court set aside the conviction of a man for murder and further directed the State to pay him compensation worth Rs 42 lakhs, observing that his conviction was a result of a botch and maliciously motivated investigation by an 'outrightly partisan' police.]*
47. **Vishaka & Ors v. State of Rajasthan & Ors**, (1997) 6 SCC 241 [*Gender justice - Articles 14 and 21 of Constitution of India and Section 2 of Protection of Human Rights Act, 1993 - petition for preservation and enforcement of right to gender equality and fundamental rights of working women - Court framed various guidelines including disciplinary action, complaint mechanism and complaints committee - Court directed that guidelines and norms would be strictly observed in all work places for preservation and enforcement of right to gender equality of working women.]*
48. **People's Union for Civil Liberties v. Union of India**, (2013) 10 SCC 1 [*The right to secrecy is a major right to establish the 'free and fair elections' and above it and this stance can only be overturned when the question arises as to the credibility over free elections. The court also referred to the 170th law Commission Report which stated the need to introduce the concept of the negative vote under which a panel would be introduced below the EVMs, similar to the ones through which other candidates are voted, for counting of votes opting not to vote for any candidate. The Election Commission added that the panel named as None of The Above (NOTA) could be added as per the Section 79(d) under the electoral rights. The impugned parts of the 1961 rules to be violative of Article 19(1) (a) and 14 of the Constitution of India and ordered for the inclusion of NOTA as the last panel of the EVMs and Ballot Papers.]*

***Suggested Additional Reading (Landmark Judgments - Citations for Reference)**

- ✓ **Mohammad Salimullah and Anr. v. Union of India And Ors**
- ✓ **Rajbala v. State of Haryana**; (2016) 2 SCC 445
- ✓ **Supreme Court Advocates on Record Association v. Union of India**; 2015 AIR SCW 5457
- ✓ **Shreya Singhal v. Union of India** 2015; Indlaw SC 211
- ✓ **Charu Khurana v. Union of India (UOI)**; (2015)ISC C 192
- ✓ **Pramati Educational and Cultural Trust and Ors. v. Union of India (UOI) and Ors**; (2014)8SC C 1
- ✓ **State of Maharashtra v. Indian Hotel and Restaurants Association**; (2013) 8 SCC 519
- ✓ **Lily Thomas v. Union of India & Ors**; (2013) 7 SCC 653
- ✓ **People's Union of Civil Liberties v. Union of India**; (2013) 10 SCC 1

- ✓ *Abhay Singh v. State of Uttar Pradesh and Ors; (2013) 15 SCC 435*
- ✓ *Union of India v. R. Gandhi, President, Madras Bar Association; (2010) 11 SCC 1201*
- ✓ *M. Nagaraj and Others v. Union of India & Others; AIR 2007 SC 71*
- ✓ *I.R. Coelho (Dead) By Lrs v. State of Tamil Nadu & Ors; (2007) 2 SCC 1*
- ✓ *P.A. Inamdar and Others v. State of Maharashtra; (2005) 6 SCC 537*
- ✓ *L. Chandra Kumar v. Union of India; AIR 1997 SC 1125*
- ✓ *People's Union of Civil Liberties v. Union of India; AIR 1997 SC 568*
- ✓ *S.R. Bommai v. Union of India; AIR 1994 SC 1918*
- ✓ *A.R. Antulay vs R.S. Nayak & Anr, 1988 AIR 1531*
- ✓ *Bijoe Emmanuel & Ors v. State of Kerala; AIR 1987 SC 748*
- ✓ *Minerva Mills Ltd. & Ors. v. Union of India & Ors; AIR 1980 SC 1789*
- ✓ *Maneka Gandhi v. Union of India; AIR 1978 SC 597*
- ✓ *Indira Nehru Gandhi v. Raj Narain & Another; AIR 1975 SC 1590*
- ✓ *Kesavananda Bharati v. State of Kerala; AIR 1973 SC 1461*
- ✓ *E. M. Sankaran Namboodiripad v. T. Narayanan Nambiar; AIR 1970 SC 2015*
- ✓ *The Chairman Railway Board v. Chandrima Das, (2002) 2 SCC 465*
- ✓ *Vadivelu Thevar v. State of Madras, AIR 1957 SC 61*