

2022 SUPREME COURT ROUND UP



January 2022-



Arunachala Gounder V. Ponnuswamy-





Hindu Succession Act, 1956-

Ancestral Property, Self acquired property

- Before 2005- 3 generation male lineage had coparcenary rights (Rule of survivorship)

2005 Amendment Act-

- **Rule of survivorship abrogated**
- First right will go to widow, son and daughter equally
- Daughters are co-parceners

Enforcement date- 9 dec 2005



Prakash V. Phulwati (2016)

- Father needs to be living- at the date of 9-9-2005
- Living co-parcener living daughter will have the right

Danamma V. Amar (2018)

- Even if father is dead, daughter will still have right
- Living co-parcener not a mandate

Vineeta Sharma V. Rakesh Sharma (2020)

Women's right to ancestral property is by birth, hence inherent

Doesn't matter if father is living or dead

How latest Supreme Court Judgment expands daughter's legal rights to father's property



Inheritance among all Hindus (irrespective of the school of thought) was crystallized by means of the Hindu Succession Act, 1956.



Arunachala Gounder V. Ponnuswamy (2022)

Justices S. Abdul Nazeer and Krishna Murari

- **The issue of succession was of 1967**
- **Can daughters inherit self – acquired property of father who died intestate?**
- **Where shall the property of female hindu go, if she dies intestate and issueless?**
- *"Right of a widow or daughter to inherit the self-acquired property or share received in partition of a coparcenary property of a Hindu male dying intestate is well recognized not only under the old customary Hindu Law but also by various judicial pronouncements".*

State of U.P. V. Jai Dutt-

Justices MR Shah and BV Nagarathna

In this case, the accused were convicted under Section 302 IPC by the Trial Court. Partly allowing the appeal, the Allahabad High Court modified the conviction to Section 326 IPC(grievous hurt by dangerous weapons or means, HC noted no fracture on skull and the victim died after 6 days.

- Head injury sufficient to invoke Sec 302
- Other injuries need not be proved



State of M.P V. RD Sharma-

Justices DY Chandrachud and Bela M.
Trivedi

**“ Equal pay for equal work” not a
vested in any employee, though
constitutional goal to be achieved
by the Govt.**

**Deciding pay scale is work of executive
and not Judiciary**





Deepak Sharam V. State of Haryana

- **Taking custody of jewelry for safety not cruelty under Sec 498A**
- **State of M.P. V. Jogendra-**
- **CJI NV Ramana, Justice AS Bopanna and Hima Kohli**
- **Demand of dowry for construction of house is still a demand for dowry under Sec 498A, 304B**





February 2022-

State of Uttrakhand V. Sachendra Singh Rawat-

Circumstances from which intention to cause death needs to gathered under S. 302

An incident where accused attacked the deceased at midnight and continued to chase him and gave several blows cannot be said to be result of 'sudden fight in the heat of passion' and would not fall under Fourth exception to Section 300 IPC, the Supreme Court has said.

Justice MR Shah and Justice BV Nagarathna





HC- Convicted only for Culpable Homicide

SC- Looked into Nature of weapon, amount of force etc and convicted under Sec 302

- *(i) nature of the weapon used;*
- *(ii) whether the weapon was carried by the accused or was picked up from the spot;*
- *(iii) whether the blow is aimed at a vital part of the body;*
- *(iv) the amount of force employed in causing injury;*
- *(v) whether the act was in the course of sudden quarrel or sudden fight or free for all fight;*



- *(vi) whether the incident occurs by chance or whether there was any premeditation;*
- *(vii) whether there was any prior enmity or whether the deceased was a stranger;*
- *(viii) whether there was any grave and sudden provocation and if so, the cause for such provocation;*
- *(ix) whether it was in the heat of passion;*
- *(x) whether the person inflicting the injury has taken undue advantage or has acted in a cruel and unusual manner;*
- *(xi) whether the accused dealt a single blow or several blows.*

Rajesh Yadav v. State of U.P.

The final report itself cannot be termed as a substantive piece of evidence being nothing but a collective opinion of the investigating officer

Sec 173- Evidentiary value discussed

Justices Sanjay Kishan Kaul and MM Sundresh



Ravindra V. UOI-

Justices Sanjay Kishan Kaul and MM Sundresh

LI without remission till last breath can be imposed as substitution of death sentence.

Section 432 of the Criminal Procedure Code deals with the power of the Government to **suspend or remit sentences**. Remission of a sentence essentially means the full termination of a sentence at a reduced point.

S. 433 A Restrictions on Remission powers

- For Life Convicts minimum 14 years has to be served
- **Overruled UOI V. V. Sriharan**

NewOkhla Industrial Development Authority V. Ravindra Kumar Singhvi-



Justices Hemant Gupta V. RamaSubramaniam

- Affidavits not mere sheets of paper but Solemn statements on Oath**
- SC upholds cancellation of NOIDA plot allotment**



Kishor Madhukar Pinglikar Vs Automotive Research Association Of India-

Presence Of Some Element Of Public Duty Or Function Would Not By Itself Make A Body 'State' Under Article 12 : Supreme Court

The respondent Association is not under the control of the central government and the supervision is limited and confined to specific aspects, which do not have the effect of deep and pervasive control of the Central Government., the bench said

Justices Sanjeev Khanna and Bela M. Trivedi



- **Rammana Dayaram Shetty V. International air authority**
– (1979)
- Guidelines given for if university is a state of not –
 - Source of income?
 - Deep and pervasive State control? Eg. Appointment or removal of members
 - Nature of work is of public welfare or not?
 - Ground of establishment is of govt. or not?



March 2022-

Luckose Zachariah and Others v. Joseph and Others

Section 173 CrPC - Magistrate Should Consider Initial Report, 173(2) & Supplementary Report, 173(8) Conjointly To Decide Whether To Proceed Against Accused.

Referred -*Vinay Tyagi v. Irshad Ali (2013)* - Which held that supplementary report has to be dealt as a part of primary report.

Justices DY Chandrachud and Surya Kant



N Rajendran vs S Valli

Coram: Justices KM Joseph and Hrishikesh Roy

Consent Of Parties Not Necessary To Dissolve Marriage On Ground Of Irretrievable Breakdown.

- HC had set aside the decree of divorce by Family Court on the ground of Irretrievable breakdown of marriage because there was no consent given by Wife's side, Though they were living separately for 22 years.**



Abdul Vahab vs State of Madhya Pradesh

Justices KM Joseph and Hrishikesh Roy

**Acquittal In Criminal Case Is A Factor While Deciding
Confiscation Proceedings Under **MP Cow Slaughter
Prohibition Act.****

- Failed to prove if the cows were being transported for slaughter purpose.**



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- **Kamla Devi vs State of Rajasthan**
- Coram: Justices MR Shah and BV Nagarathna
- No reason was provided for the bail, wife was the appellant
- **Court Deciding Bail Application Cannot Completely Divorce Its Decision From Material Aspects Of The Case**
- The material aspects includes the following:
 - (1) allegations made against the accused;
 - (2) severity of the punishment if the allegations are proved beyond reasonable doubt which would result in a conviction;
 - (3) reasonable apprehension of the witnesses being influenced by the accused;
 - (4) tampering of the evidence;
 - (5) the frivolity in the case of the prosecution;
 - (6) criminal antecedents of the accused; and
- (7) a prima facie satisfaction of the Court in support of the charge against the accused.

Cessante ratione legis cessat ipsa lex - Reason is the soul of the law, and when the reason of any particular law ceases, so does the law itself.



Manorama Naik vs State of Odisha

Coram: Justices Sanjiv Khanna and Bela M. Trivedi

Handwriting Expert's Opinion Not The Only Mode To Prove Signature And Handwriting.

S.47 (Person acquainted with handwriting), 73 (Comparison of handwriting with other) IEA can also be referred



April 2022-

Nahar Singh vs State of Uttar Pradesh-

Coram: Justices Vineet Saran and Aniruddha Bose

Section 190 (1)(b) CrPC- Magistrate Can Summon Person Not Named In Police Report Or FIR If Materials Reveal Prima Facie His Involvement

- **Section 190 - Subject to the provisions of this Chapter, any Magistrate may take cognizance of any offence—**
- **upon receiving a complaint of facts which constitute such offence;**
- **upon a police report of such facts;**
- **upon information received from any person other than a police officer, or upon his own knowledge, that such offence has been committed.**

Swarnalatha vs Kalavathy-

Coram- Justices Hemant Gupta and V. Ramasubramanian

The Supreme Court observed that the exclusion of one of the natural heirs from the bequest in a Will, cannot by itself be a ground to hold that there are suspicious circumstances.

The Court does not apply Article 14 to dispositions under a Will



Saroja Ammal vs M Deenadayalan



**Justices Hemant Gupta and V.
Ramasubramanian**

Owner Can Bequeath Properties Even To
Strangers By Will

Saroja Ammal was a live in Partner
Marimuthu Gounder was wife



- **Madan Lal v NDMC & Anr**
- **Justices MR Shah and BV Nagarathna**
- Hawker Can't Claim Right To Leave Goods & Wares Overnight At Hawking Place
- He is permitted to hawk in the market only as per the hawking policy and not against the same.



Umesh Chandra Yadav V. The Inspector General And Chief Security Commissioner

- **Coram: Justices Ajay Rastogi and AS Oka**
- Suppression Of Information About Criminal Case By Candidate In Selection Process Can Be Ignored In Certain Situations
 - nature of post, nature of duties, impact of suppression on suitability* has to be taken under consideration.
- **The criminal case was instituted when he was a minor**



- **May 2022**

Jacob Puliyel vs Union Of India

-Justices L Nageswara Rao and BR Gavai

Nobody Can Be Forced To Get Vaccinated; Vaccine Mandates are not proportionate

- The right to bodily integrity of a person under Article 21 of the Constitution include the right to refuse vaccinate.
- The Court held so as no substantial data has been produced on record to show that the risk of transmission of COVID-19 virus from the unvaccinated persons are higher than from vaccinated persons.
- The Government is entitled to impose restrictions on individual rights in public health interests, but the restrictions should **meet the 3-fold requirement legality, legitimate need and proportionality**



Pawan Kumar vs Union of India

Coram: Justices Ajay Rastogi and Sanjiv Khanna

Mere Suppression Of Information About Criminal Does Not Mean That Employer Can Arbitrarily Terminate Employee From Service

- In this case, the appellant was selected to the post of Constable in the Railway Protection Force (RPF).
- While he was undergoing training, he was discharged from service on the ground that he did not disclose that an FIR of criminal intimidation and likewise offences
- **He was acquitted**
- **And the FIR was registered after he had filled his application form**



Samarpan Varishtha Jan Parisar vs Rajendra Prasad Agarwal

Coram: Justices Hemant Gupta and V. Ramasubramanian

Inmates Of Old Age Home Are Licensees ; Have No Legal Right To Protect Their Possession Without Complying With Corresponding Obligations

"The inmates in the old age home are licensees and are expected to maintain a minimum level of discipline and good behaviour and not to cause disturbance to the fellow inmates who are also senior citizens.

Their possession is not a legal possession but only a permissive possession, But till the case is pending the plaintiffs cannot be dispossessed.

Jaswinder Singh (Dead) Through Legal Representative v. Navjot Singh Sidhu



Justices A. M. Khanwilkar and Sanjay Kishan Kaul

*While emphasising on the importance of considering the **principle of proportionality**, the bench observed that a disproportionately light punishment humiliates and frustrates a crime's victim when the offender goes unpunished or is let off with a relatively minor punishment.*

The bench noted that the blow was not inflicted on a person identically physically placed but a 65 year old person, and Sidhu cannot plead ignorance on aspect of the effect of the blow.

1988 Road Rage Case



- **Budhadev Karmaskar V. State of West Bengal –**
- **Justices L. Nageswara Rao, B.R. Gavai and A.S. Bopanna**
- *"Notwithstanding the profession, every individual in this country has a right to a dignified life under Article 21"*
- Asserting that the basic protection of human decency and dignity extends to sex workers, the Supreme Court has directed that the police should treat sex workers with dignity and should not abuse them, verbally or physically.





The Apex Court had constituted a Panel for sex workers by its order dated 19.07.2011. There were broadly three aspects that the Panel had identified -

- Prevention of trafficking;
- Rehabilitation of sex workers who wish to leave sex work; and
- Conditions conducive for sex workers who wish to continue working as sex workers with dignity.



- The Union Government had informed the Court that the recommendations made by the Panel were under consideration and a draft legislation was published incorporating the same.
- Since the same has not yet been made into an Act, SC using its power of A.142 issued following guidelines-

1. **Any sex worker who is a victim of sexual assault should be provided with all facilities available to a survivor of sexual assault.**
2. The State Governments may be directed to do a **survey of all Protective Homes** so that cases of **adult women, who are detained against their will can be reviewed and processed for release in a time-bound manner.**
3. Further, the Court directed that media should not publish their pictures or reveal their identity while reporting rescue operations and stated that the offence of voyeurism under **Section 354C of the IPC should be enforced if media publishes the pictures of sex workers with their clients.**



4. Measures that sex workers employ for their health and safety (e.g., use of condoms, etc.) must neither be construed as offences nor seen as evidence of commission of an offence.
5. Police should treat all sex workers with dignity and should not abuse them, both verbally and physically, subject them to violence or coerce them into any sexual activity.
6. The CG & SG carry out workshops for educating the sex workers about their rights vis-a-vis the legality of sex work, rights and obligations of the police and what is permitted/prohibited under the law.



Few other recommendations included-

- Whenever there is a raid on any brothel, since voluntary sex work is not illegal and only running the brothel is unlawful, the sex workers concerned should not be arrested or penalised or harassed or victimised.
- Sex workers are entitled to equal protection of the law. Criminal law must apply equally in all cases, on the basis of 'age' and 'consent'.
- UIDAI To Issue Aadhaar Cards To Sex Workers Without Insisting On Proof Of Residence



S.G. VOMBATKERE vs UNION OF INDIA

- In a historic development, the Supreme Court ordered that the 152-year old sedition law under Section 124A of the Indian Penal Code should be effectively kept in abeyance till the Union Government reconsiders the provision.
- A bench comprising the **Chief Justice of India NV Ramana**, **Justice Surya Kant** and **Justice Hima Kohli** held that all pending trials, appeals and proceedings with respect to charges framed under Section 124 A be kept in abeyance. Adjudication with respect to other sections may proceed with no prejudice be caused to the accused,

June 2022-



State of Andhra Pradesh vs Raghu Ramakrishna Raju

High Court Order Will Prevail When Conflicting Orders Are Passed By HC & NGT On Same Issue the Supreme Court quashed the proceedings before National Green Tribunal which halted the construction works at Rushikonda Hills in Visakhapatnam.

Construction Permitted Only On Flat Areas & area Where Construction Already Existed Till HC Considers



Ms. P XXX v. State of Uttarakhand

Justices Dinesh Maheshwari and Vikram Nath

The SC reiterated that whether two or more acts constitute the same transaction for the purpose of being tried together under Section 220 of Cr.P.C, is purely a question of fact.

The reasonable determination of the same would however depend on elements like-

1. proximity of time, unity
2. or proximity of place,
3. continuity of action
4. and community of purpose or design.



220. Trial for more than one offence - (1) *If, in one series of acts so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with, and tried at one trial for, every such offence.*



On 13.11.2015, the appellant and the respondent no. 2 were engaged to be married, at their village in District Chamoli. Following their engagement, the appellant went to visit her fiancé (respondent no. 2) in Delhi at his invitation.

She alleged that during her visit to Delhi, in February, 2016, she was subjected to coercive sexual intercourse by the respondent no. 2. Thereafter, purportedly, he had demanded Rs. 25 lakhs to go through with the wedding.

Around the month of November, 2016, he threatened to kill the appellant and hurled abuses at her when she was in Chamoli, over a telephone call. Eventually, investigation was completed and a charge sheet was filed for offences under Section 376, 504 and 506 IPC



- ***Issue before SC-***
- Whether the offences under Sections 376, 504 and 506 IPC, formed 'one series of acts so connected together as to form the same transaction' for the purpose of trial together?



- **Ex. Ct. Mahadev vs Director General, Border Security Force**
- **Justices BR Gavai and Hima Kohli**
- **Accused Taking Plea Of Self Defence Need Not Prove It Beyond Reasonable Doubt** and that it would suffice if he could show that the **preponderance of probabilities**
- **The accused, who was serving in the BSF, had allegedly caused the death of a civilian namely Nandan Deb. General Security Force Court rejected his plea of private defence and held him guilty under Section 302 of the Indian Penal Code (murder) and sentenced him to suffer imprisonment for life.**



- The court made the following observations regarding right to self defence:
- *The instinct of self preservation is embedded in the DNA of every person*
- Necessity of averting an impending danger is the core criteria for exercising such a right.
- *Accused need not prove the existence of private self-defence beyond reasonable doubt*

- Sunil Lora v State of Rajasthan
- The Supreme Court refused to accept a marriage certificate issued by Arya Samaj while considering the bail application of an accused against whom FIR was registered for offences relating to kidnap and rape of a minor under Sections 363, 366A, 384, 376(2) and POCSO provisions.
- *Arya Samaj has no business giving marriage certificate. This is the work of authorities. Show the real certificate.*



Manoj Pratap Singh vs State of Rajasthan

Coram: Justices AM Khanwilkar, Dinesh Maheshwari and CT Ravikumar

It has Never Been The Effort Of Courts To Make Death Penalty Redundant Or Non Existent

While upholding the death sentence awarded to a man for the rape and murder of a seven and a half year old girl who was mentally and physically challenged, the Supreme court observed that it has never been the effort of the Courts to somehow make the death penalty redundant and non-existent for all practical purposes.

No Probability Of Reformation, Danger To Society' : Supreme Court Upholds Death Penalty To Man For Rape & Murder Of 8 Year Old Disabled Girl.



State Bank of India and others vs Dr.Vijay Mallya

Justices U U Lalit, S Ravindra Bhat and PS Narasimha

SC Sentences Vijay Mallya To 4 Months Imprisonment For Contempt Of Court; Asks Him To Deposit 40 Million US Dollars with 8% interest in 4 weeks

Mallya was found guilty in 2017 for transferring USD 40 million to his children in violation of the orders passed in a case filed by a consortium of banks led by the State Bank of India.

Pronouncing the sentence today, the Court said that Mallya did not show any remorse for his conduct and did not appear before it during the sentence hearing. The Court added that adequate sentence must be imposed on him to "uphold the majesty of law"



SC directed the Ministry of Home Affairs, Government of India, New Delhi to secure the presence of the Contemnor to undergo the imprisonment imposed upon him.

Needless to say, Government of India including the Ministry of External Affairs and all other agencies or instrumentalities shall carry out the directions issued by this Court with.



- **Satender Kumar Antil vs Central Bureau Of Investigation**
- **Coram: Justices Sanjay Kishan Kaul and MM Sundresh**
- **Accused Entitled To Bail If Arrest Was In Breach Of Sections 41, 41A CrPC**
- *The investigating agencies and their officers are duty-bound to comply with the mandate of Section 41 and 41A of the Code and the directions issued in Arnesh Kumar judgment..Any dereliction on their part has to be brought to the notice of the higher authorities by the court followed by appropriate action"*



- The Court also issued a slew of other directions as follows :
- *a) The Government of India may consider the introduction of a separate enactment in the nature of a Bail Act so as to streamline the grant of bails.*
- *b) The investigating agencies and their officers are duty-bound to comply with the mandate of Section 41 and 41A of the Code and the directions issued by this Court in Arnesh Kumar case. Any dereliction on their part has to be brought to the notice of the higher authorities by the court.*
- *c) The courts will have to satisfy themselves on the compliance of Section 41 and 41A of the Code. Any non-compliance would entitle the accused for grant of bail*

July 2022

Deepak Yadav V. State of U.P.

Bench- CJI NV Ramana, Justices Krishna Murari and Hima Kohli

- Cancellation of Bail cannot be Limited to the Occurrence of Supervening circumstances, SC observed while it allowed appeal against judgment of Allahabad HC which granted bail to Murder accused.**
- While setting aside the bail, the bench of HC has not taken into consideration the criminal history of accused, nature of crime, material evidences, recovery of weapon from accused.**



- The court added that the cancellation of bail cannot be limited to the occurrence of supervening circumstances, can be cancelled if-
 - 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."



- **Bhola Kumhar vs State Of Chhattisgarh**
- **Coram: Justices Ajay Rastogi and CT Ravikumar**
- **Detention Beyond Release Date Violates Article 21' : Supreme Court Grants Rs 7.5 Lakh Compensation To Convict Kept In Prison In Excess Of Sentence Period**
- Bhola Kumar was convicted in a rape case and sentenced to 12 years imprisonment. On 19 July 2018, the Chhattisgarh High Court confirmed his conviction, but reduced the sentence to 7 years of rigorous punishment. While considering his special leave petition, the Supreme Court noted that he had undergone 10 years 03 months and 16 days of custody as revealed from the custody certificate. Taking serious note of this, Superintendent of Central Jail, Ambikapur, was directed to file affidavit.



Akella Lalita vs Sri Konda Hanumantha Rao

Justices Dinesh Maheshwari and Krishna Murari

Mother Can Give Surname Of Second Husband To Child After Death Of Biological Father.

The Supreme Court has observed that a mother who remarries after the death of the biological father can decide the surname of the child and include it in her new family.

the High Court directed that wherever the records permit, the name of the natural father shall be shown and if it is otherwise impermissible, the name of the new husband of the mother shall be mentioned as step-father.

The mother being the only natural guardian of the child has the right to decide the surname of the child. She also has the right to give the child in adoption.



- ***Vijay Madanlal Choudhary Vs Union of India***
- **Justices AM Khanwilkar, Dinesh Maheshwari and CT Ravikumar**
- The Supreme Court, on Wednesday, upheld the provisions of the Prevention of Money Laundering Act, 2002 which relate to the power of arrest, attachment and search and seizure conferred on the Enforcement Directorate.
- SC upheld the Constitutional validity of "twin conditions" for bail under amended Section 45 of the Prevention of Money Laundering Act, 2002 Act.

After 2018 amendment, the relevant part of **Section 45(2)** reads thus
: *Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),*

no person accused of an offence [under this Act] shall be released on bail or on his own bond unless—

- (i) the Public Prosecutor has been given an opportunity to oppose the application for such release;*
- (ii) and where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail:*



SC held that it is clear from above that by amending the provision, the Parliament has removed the defect or has taken away the basis on which the provision was declared void then the provision cannot be said to be in conflict with Article 13 of the Constitution.

Nikesh Tarachand Shah was in reference to only offences punishable for a term of imprisonment of more than three years under Part A of the Schedule of the 2002 Act and not even linked to the offences of money-laundering under the 2002 Act.