Weekly Judiciary Digest

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Current & Conceptual Weekly

27th May to 1st June, 2025

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1. Subsistence of Plaint Essential for Grant of Temporary Injunction: Supreme Court Clarifies Legal Position

Case Title: IEEE Mumbai Section Welfare Association v. Global IEEE Institute for Engineers

Citation: 2025 LiveLaw (SC) 658

Court: Supreme Court of India

Bench: Justices B.V. Nagarathna and S.C. Sharma

In a significant pronouncement reinforcing procedural clarity under civil litigation, the Supreme Court in *IEEE Mumbai Section Welfare Association v. Global IEEE Institute for Engineers* [2025 LiveLaw (SC) 658] held that **a temporary injunction cannot be granted when the plaint itself has been rejected under Order VII Rule 11 of the Civil Procedure Code (CPC)**. The Court

emphasized that **an injunction order necessarily presupposes the existence of a subsisting plaint**, and once the plaint stands rejected, it becomes non est in the eyes of law—rendering any interim relief legally untenable unless and until the plaint is revived through appropriate appellate intervention.

The controversy arose when the Respondent, whose plaint had been rejected by the Commercial Court under Order VII Rule 11 CPC, filed an appeal before the High Court along with a prayer for a temporary injunction. Despite the pending appeal, the High Court granted the injunction, restraining the Appellant. Aggrieved, the Appellant challenged this order before the Supreme Court.

Setting aside the impugned injunction, the apex court held that **the High Court erred in entertaining the injunction application despite the rejection of the plaint**. The Court clarified that **the rejection of a plaint is not merely a procedural irregularity—it extinguishes the suit itself**, and thus any relief, including injunctive orders, must necessarily be predicated upon a live, existing suit.

The judgment unequivocally declared that **an appeal filed against an order rejecting a plaint is not to be treated as a continuation of the suit itself**. In doing so, the Court drew a conceptual distinction between appellate proceedings and the existence of the original suit. It held that unless the appellate court sets aside the rejection and restores the plaint, **the legal substratum for seeking injunctive relief ceases to exist**.

In strong terms, the Court remarked, "**It is necessary that there ought to be a subsisting plaint in order to seek an order of temporary injunction**." The judgment affirms the principle that **injunctive relief is an ancillary remedy**, dependent upon the survival of a principal claim in the form of a plaint.

This decision offers a crucial clarification for judiciary aspirants and practicing lawyers alike, particularly in relation to **the application of Order XXXIX Rules 1 and 2 CPC** and their interplay with **Order VII Rule 11 CPC**. It reinforces the idea that **interim relief cannot stand independent of the main suit**, and courts must exercise caution in granting such relief in the absence of a valid proceeding on record.

By reiterating that **procedural safeguards are integral to substantive justice**, the Supreme Court has reaffirmed the rule of law and the foundational structure of civil litigation. The appeal was accordingly allowed, with the Court restoring legal certainty in the domain of injunctive jurisprudence.

2. Supreme Court Monitors Nationwide Compliance with POSH Act, 2013: States File Affidavits Following Mandate

Case Title: Aureliano Fernandes v. State of Goa & Ors.

Diary No.: 22553-2023

Court: Supreme Court of India

Bench: Justices B.V. Nagarathna and Satish Chandra Sharma

Date of Hearing: May 2025 (Next Hearing: August 12, 2025)

In an important development in *Aureliano Fernandes v. State of Goa & Ors.* [Diary No. 22553-2023], the Supreme Court continues to monitor the implementation of the **Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act)** across India. The case reflects the Court's commitment to ensuring robust institutional compliance with gender-sensitive workplace laws.

The apex court had earlier issued **detailed directions on December 3, 2024**, requiring full compliance from all States and Union Territories. Following multiple compliance orders, all States and UTs have now filed their affidavits, marking a major procedural step towards effective implementation of the Act.

On the appointment of District Officers, the Court's directive was clear: the **Chief Secretaries of every State were to notify District Officers in every district by 31.12.2024**. As per the latest status report submitted by amicus curiae Adv. Padmapriya, all States have now appointed the required officers. The Court has further instructed States and UTs to **verify and publish these lists on their own websites as well as on NALSA's official portal**.

Regarding the **Local Complaints Committee (LCC)**, the Court had directed that these committees be **constituted or reconstituted by 31.01.2025** wherever necessary. While most States appear compliant, the affidavits from **Delhi, Haryana (particularly Jind, Karnal, Nuh), Jharkhand (2 districts), and Kerala** were deemed incomplete or unclear. The Court has asked these States to **submit additional affidavits clarifying compliance**.

As for the **Internal Committee (IC)**, directions required the constitution or reconstitution of ICs across **all government departments, PSUs, and relevant bodies at both State and Central levels by 31.01.2025**. Many States, including **Gujarat, Karnataka, West Bengal, Uttar Pradesh**, among others, have conducted extensive surveys—even in private institutions. However, **States like Bihar, Manipur, and Uttarakhand** limited their surveys to government entities. Additionally, **several States failed to furnish any data on district-level surveys**, drawing concern from the Court.

On the issue of **Nodal Officers under Section 6(2) of the POSH Act**, most States have made appointments. However, confusion persists in some affidavits—particularly in **Arunachal Pradesh, Chhattisgarh, Haryana, Madhya Pradesh, West Bengal, and several Union Territories**—as to whether the officers were appointed under the Act or solely for the **SheBox portal**, which is a Central Government initiative and not governed by statute. The Court has taken note of this ambiguity and may seek clarification.

The matter has now been **adjourned to August 12, 2025**, allowing additional time for full compliance by the remaining States and clarification where necessary. This case highlights the judiciary's proactive role in ensuring **institutional mechanisms mandated under the POSH Act are not only created but also function effectively**.

3. Supreme Court Upholds Procedural Safeguards for Invoking UP Gangsters Act: Guidelines Made Judicially Enforceable

Case Title: Vinod Bihari Lal v. State of Uttar Pradesh & Anr.

Citation: 2025 LiveLaw (SC) 615

Court: Supreme Court of India

Bench: Justices J.B. Pardiwala and Manoj Misra

Date of Judgment: May 23, 2025

Criminal Appeal Nos.: 000777–000778 / 2025 (and connected matters)

In a crucial ruling reinforcing due process in the invocation of preventive detention statutes, the Supreme Court in *Vinod Bihari Lal v. State of Uttar Pradesh* [2025 LiveLaw (SC) 615] quashed charges under the **Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Act, 1986** against Vinod Bihari Lal, Director of SHUATS University. The Court held that the First Information Reports (FIRs) filed under the Act were **an abuse of legal process** and lacked sufficient legal basis.

While doing so, the Court gave **judicial enforceability to the guidelines issued by the Uttar Pradesh Government on December 2, 2024**, which were formulated pursuant to earlier directions in *Gorakh Nath Mishra v. State of Uttar Pradesh* (Order dated April 19, 2024). The Court adopted these administrative guidelines into binding legal standards, stating that authorities must comply with them in **"both letter and spirit."**

The bench emphasized that **the Gangsters Act should not be invoked mechanically**. It must be shown that the alleged gangster engaged in activities such as **violence, coercion, or intimidation with an intent to disturb public order or obtain an undue advantage**. The decision strengthens the notion that the Act must not be used to target individuals arbitrarily, particularly in cases where regular criminal law provisions suffice.

Among the key provisions of the guidelines made enforceable are:

- **Mandatory inclusion of an attested Gang Register copy** with the gang chart and detailed criminal records sourced from DCRB and digital databases like CCTNS/ICJS.
- **Joint review of the case file by the Police Commissioner or District Magistrate and the Superintendent of Police**, ensuring application of an **independent mind** before approving the gang chart.
- A strict bar on **rubber-stamped approvals**, requiring hand-signed authorizations after **thorough perusal** of attached documents.
- Internal records like **meeting resolutions of district-level law enforcement authorities** must be maintained and signed with dates.
- Any **illegality pointed out by prosecution officers** must be rectified before the approval of the gang chart and charge sheet.
- **Rule 36 compliance** mandates detailed investigations into the **movable and immovable properties** of the alleged gang, with corroboration from revenue records where necessary.

This judgment reinforces that **preventive detention laws must be invoked with procedural caution and evidentiary rigour**, not as a tool of administrative overreach. The Court's decision injects accountability into the use of stringent statutes like the Gangsters Act and seeks to prevent their misuse against individuals without demonstrable criminal networks.

4. SC Decries Direct Communication by Trial Judges with Apex Court Registry in Time-Bound Matters

Case Title: Durgawati @ Priya v. Central Bureau of Investigation

Case No.: Miscellaneous Application No. 919/2025 in SLP(Crl) No. 3607/2023

Citation: 2025 LiveLaw (SC) 656

Court: Supreme Court of India

Bench: Justice J.K. Maheshwari and Justice Aravind Kumar

In a significant ruling concerning judicial discipline and procedural propriety, the Supreme Court in *Durgawati @ Priya v. CBI* [2025 LiveLaw (SC) 656] has **strongly disapproved the practice of trial court judges directly corresponding with the Supreme Court Registry** to seek extensions in cases where the apex court has issued directions for expeditious disposal. The Court termed such conduct as "**wholly unacceptable**" and contrary to the structured hierarchy of judicial administration.

The observation arose while hearing a miscellaneous application in a bail matter previously dismissed on July 20, 2023, with the direction that the trial be concluded within 18 months. Despite clear communication of the Court's directions by its Registry on July 26, 2023, the concerned trial judge sent a letter dated March 20, 2025, directly to the Registry seeking more time to complete the trial.

Emphasizing procedural discipline, the Court held that **it is the responsibility of the High Court Registry to monitor the progress of time-bound cases** and, where an extension is needed, such requests must be routed through the **Registrar General or Registrar Judicial of the High Court**. The request must first be reviewed and recommended by the **immediate supervisory officer**, typically the Principal District Judge or equivalent.

The Supreme Court cited a similar instance in *Ramkishore @ Kallu v. State of Madhya Pradesh*, where the **Registrar General of the Madhya Pradesh High Court proactively framed a Standard Operating Procedure (SOP)**. The SOP lays down a uniform process for district judiciary officers handling time-bound matters to seek extensions without breaching institutional decorum. Notably, the SOP prohibits direct communication with the Registries of the Supreme Court or High Court and mandates that **all such correspondence include essential case details in tabular form**, reasons for delay, the date of the superior court's order, and the extension sought.

In addition, the SOP requires **monthly monitoring and proper record maintenance** by High Court Registrars, while also warning against repeated or frivolous extension requests.

Recognizing the importance of standardizing this practice, the Court directed that **copies of its order be circulated to the Registrar Generals of all High Courts**. The objective is to enable each High Court to place the matter before their respective Chief Justices for the **framing of similar SOPs**, ensuring that all future communications in expedited matters follow a uniform and accountable procedure.

5. Supreme Court Flags Obsolete Legal Framework for Cryptocurrency: Calls for Urgent Regulation Amid Bitcoin Extortion Case

Case Title: Shailesh Babulal Bhatt v. State of Gujarat & Anr.

Case No.: SLP (Crl) No. 4036/2025

Court: Supreme Court of India

Bench: Justices Surya Kant, Dipankar Datta, and Vijay Bishnoi

Date of Hearing: May 2025

In *Shailesh Babulal Bhatt v. State of Gujarat*, the Supreme Court once again brought national attention to the **regulatory vacuum surrounding cryptocurrencies**, observing that **existing laws are "completely obsolete" and ill-equipped to handle the complexities of Bitcoin and other digital currencies**. The remarks came during a hearing in a case involving allegations of cryptocurrency-linked extortion, where the petitioner, a Gujarat-based businessman, sought interim bail.

The bench, comprising Justices Surya Kant, Dipankar Datta, and Vijay Bishnoi, noted with concern that despite repeated judicial nudges, **there exists a grey area in the legal framework governing cryptocurrencies in India**. The Court criticized the absence of a clear regulatory mechanism and emphasized that **India cannot afford to remain passive observers while other jurisdictions adopt diverse approaches to digital currencies**.

Senior Advocates Siddharth Dave and Mukul Rohatgi, appearing for the petitioner, highlighted that though the petitioner had cooperated with investigation agencies by appearing 15 times before his arrest in August 2024, he continued to be in custody without being charge-sheeted in the predicate offences. They further pointed out that the ED had named him as an accused in its ECIR, but his name was not included in the first prosecution complaint.

The Court recalled its earlier interactions with the Attorney General of India, where the government's stance was to **monitor international developments before formulating domestic regulations**. However, Justice Kant emphasized that **the problem is not confined to a single case but stems from a systemic policy gap**, urging the Union government to take concrete action.

Additional Solicitor General Aishwarya Bhati, representing the Union, argued that the petitioner was being uncooperative and had failed to substantiate his claim of being a Bitcoin investor. She clarified that while **KYC-compliant wallets can now be frozen by investigating agencies**, **non-KYC wallets remain a significant challenge**, underlining the need for urgent regulation in this digital space.

On the merits, the Court refrained from making any conclusive observations regarding the petitioner's innocence or guilt. However, it deferred further proceedings to **July 2025**, directing investigating agencies to **complete their inquiries in the interim period**.

The present case adds to a series of proceedings where the Supreme Court has acknowledged the need for a **comprehensive cryptocurrency regulatory framework**, while consistently refusing to issue judicial directions on policy matters. Earlier, in *November 2023* and *April 2025*, the

Court had dismissed similar petitions, affirming that **Parliament, not the judiciary, is the appropriate forum to legislate on this issue**.

6. Three New Judges Take Oath, Supreme Court Restored to Full Strength of 34 Judges

Court: Supreme Court of India

Event Date: May 31, 2025

Judges Appointed: Justice N.V. Anjaria, Justice Vijay Bishnoi, and Justice Atul S. Chandurkar

Collegium Recommendation Date: May 26, 2025

Presidential Approval & Centre Notification: May 29, 2025

In a significant development for the Indian judiciary, **Justices N.V. Anjaria, Vijay Bishnoi, and Atul S. Chandurkar took oath as Judges of the Supreme Court of India** on May 31, 2025. The oath of office was administered by **Chief Justice of India D.Y. Chandrachud** in a ceremony held at the Supreme Court. Notably, **Justice Vijay Bishnoi took the oath in Hindi**, marking a moment of linguistic inclusivity in the higher judiciary.

These appointments were made following the recommendation of the **Supreme Court Collegium on May 26, 2025**, and the **President's approval and Centre's notification issued on May 29, 2025**. With these inductions, **the Supreme Court is presently at its full sanctioned strength of 34 judges**, although a vacancy is imminent due to the upcoming **retirement of Justice Bela M. Trivedi on June 9, 2025**.

Justice N.V. Anjaria, prior to his elevation, served as the **Chief Justice of the Karnataka High Court**. His **parent High Court is Gujarat**, where he built a distinguished judicial career. He is expected to serve in the apex court until **March 23, 2030**.

Justice Vijay Bishnoi was previously the **Chief Justice of the Gauhati High Court**, with his parent High Court being Rajasthan. His tenure in the Supreme Court will continue till **March 25, 2029**.

Justice Atul S. Chandurkar was serving as a senior judge of the **Bombay High Court** before his elevation. His term on the Supreme Court bench is expected to last until **April 7, 2030**.

These appointments hold particular significance as the **Supreme Court had been operating with vacancies**, impacting the efficiency of case disposal. The timely recommendation by the Collegium and swift approval by the executive reflect a positive institutional collaboration in the judicial appointment process.

With the Court now temporarily restored to full capacity, the focus returns to key constitutional and policy matters pending before it, while institutional efficiency is expected to improve in the short term.

7. Delhi High Court Directs Kunal Kamra to Take Down Defamatory Tweet in ANI Defamation Suit over YouTube Video

Case Title: Asian News International (ANI) v. Mohak Mangal & Ors.

Court: Delhi High Court

Bench: Justice Amit Bansal

Date of Hearing: May 29, 2025

Next Date of Hearing: July 2025

In a high-profile defamation suit filed by **news agency ANI** against **YouTuber Mohak Mangal**, the **Delhi High Court on May 29, 2025**, directed **comedian Kunal Kamra** to take down a tweet allegedly defamatory towards ANI. The suit arises from Mangal's widely circulated video titled **"Dear ANI"**, which currently has over **5.5 million views**, and contains allegations that ANI engages in **extortion and blackmail** by threatening content takedowns over alleged copyright violations.

Justice Amit Bansal, while recording submissions from Kamra's counsel, noted that although Kamra reserved all his rights and contentions, his **first tweet—accusing ANI of being "mafia" and "thugs"—would be taken down within 24 hours**. The Court remarked that **"calling someone thugs and mafia is serious"**, emphasizing that satire and fair comment are protected, but not at the cost of abusive language.

The Court rejected Kamra's defence that the tweet was justified as fair comment on a matter of public interest, stating orally: **"I am all for free speech, but you have a huge following, and such language has impact"**. Kamra's tweet had tagged YouTube India and accused ANI of exploiting the platform, saying: *"Hello @YouTubeIndia why are you letting @ANI run this mafia. Creators make your platform not these thugs."*

Another defendant, **Mohammed Zubair**, represented by Advocate Soutik Banerjee, offered to delete his single tweet referencing the video, and was consequently **removed from the array of parties**. The Court took on record his submission that he is not the creator of the video and is open to settlement.

During the hearing, the Court also viewed the impugned video and asked Mangal's senior counsel **Chander Lall** to take instructions on possibly removing certain objectionable portions. **ANI, represented by Senior Advocate Amit Sibal**, argued that the video contains defamatory content and unlawfully reproduces ANI's copyright-protected material, including clips, branding, and logos. ANI alleges that the video refers to its agency as a **"gunda" (goon) and "kidnapper"**, which it claims damages its **reputation, goodwill, and registered trademarks**.

In defence, Mangal's counsel denied any intent to extort or defame. He further claimed that ANI itself had threatened to **block Mangal's channel** if payments were not made, suggesting that ANI's own conduct may be questionable and that the core dispute is actually about **alleged copyright infringement**, not defamation.

The Court noted the complexity of balancing **free speech, satire, copyright, and defamation**, and chose to address the issues progressively. It clarified that it will deal with the second tweet and other broader aspects at the next hearing.

8. Supreme Court Acquits 11 Accused in Murder Case Citing Improper Competency Assessment of Child Witness

Case Title: Agniraj & Ors. v. State

Citation: 2025 LiveLaw (SC) 644

Court: Supreme Court of India

Bench: Justices Abhay S. Oka and Ujjal Bhuyan

Date of Judgment: May 2025

In a significant ruling that reinforces procedural safeguards regarding the admissibility of child testimony, the **Supreme Court in *Agniraj & Ors. v. State*** [2025 LiveLaw (SC) 644] **acquitted 11 individuals convicted of murder**, primarily on the ground that the trial court failed to conduct the mandatory **preliminary assessment under Section 118 of the Indian Evidence Act** to determine the **competency of a 10-year-old child witness**.

The bench comprising **Justices Abhay S. Oka and Ujjal Bhuyan** held that **the conviction of the accused could not be sustained**, as a key part of the prosecution's case hinged on the testimony of **PW-9 (Nikila), a minor**, whose competence to testify had not been assessed in accordance with established legal standards.

The Court emphasized that **it is a condition precedent for courts to conduct a preliminary examination of a child witness before recording their testimony**, to determine if the minor understands the nature of the proceedings and the importance of telling the truth. In the present case, however, the trial judge **administered an oath without asking any preliminary questions**, thereby failing to satisfy the legal requirement of ensuring the child's competence.

The Court observed: **"It is very well known that child witnesses are susceptible to tutoring and therefore, not asking preliminary questions to the minor witness makes her evidence very vulnerable."** It further noted that the **testimony of PW-9 was influenced by hearsay** as she admitted during cross-examination that **her mother told her about the incident**, raising the possibility of tutoring.

Additionally, the Court pointed out that **no Test Identification Parade (TIP)** was conducted prior to the witness identifying the accused in court for the first time. This lapse further **weakened the prosecution's case**, as **in-court identification without prior TIP** is considered unreliable, especially when done by a child witness with a high risk of suggestibility.

The judgment, authored by Justice Oka, stated unequivocally that **since the prerequisite of assessing the minor's competency under Section 118 was not fulfilled**, the testimony of PW-9 had to be **excluded from consideration**. As this witness's statement formed a substantial part of the prosecution's case, **the conviction could not stand in the absence of credible and legally admissible evidence**.

Accordingly, the **Supreme Court allowed the appeal**, set aside the convictions, and ordered the acquittal of all 11 accused.

9. SC Agrees to Hear Plea Against Demolition in Batla House Area, Jamia Nagar

Case Title: I.A. filed by Nassu Ahmad & Ors. in Sultana Shaheen v. Durga Shankar Mishra & Anr.

Case No.: Contempt Petition No. 335 of 2021 in Writ Petition (Civil) No. 4677 of 1985

Court: Supreme Court of India

Bench: Chief Justice of India D.Y. Chandrachud (now CJI B.R. Gavai)

Date of Hearing: May 29, 2025

Next Hearing: Next week (TBA)

Application Filed By: Advocate-on-Record Adeel Ahmad

The **Supreme Court on May 29, 2025**, agreed to list next week a plea filed by **40 residents and property owners of Khasra Nos. 271 and 279, Batla House, Jamia Nagar**, challenging **demolition notices issued by the Delhi Development Authority (DDA)** and the Delhi government. The application arises in connection with the Court's earlier order dated **May 8, 2025**, directing the demolition of unauthorized structures on over **4 bighas of public land in Khasra No. 279, Okhla Village**, within three months.

The application was filed in the ongoing **Contempt Petition No. 335/2021** under the long-standing environmental PIL of *M.C. Mehta v. Union of India* (W.P. (C) No. 4677/1985), in which demolition of encroachments on public land is being monitored.

The petitioners, through **Advocate-on-Record Adeel Ahmad**, approached **Chief Justice B.R. Gavai** for urgent listing, arguing that the **demolition notices were pasted without notice or hearing**, in **violation of the Supreme Court's own direction** that a 15-day notice period must be given before any eviction. The notices were allegedly affixed on **May 26, 2025**, directing immediate vacation without compliance with procedural safeguards.

Initially, CJI Gavai **suggested the petitioners approach the Delhi High Court**, noting that the right to seek such recourse had been preserved in the earlier Supreme Court order. However, Ahmad argued that the demolition order had stemmed directly from a **Supreme Court directive**, making it inappropriate to approach the High Court. He contended that **his clients were not heard before the Court passed its earlier order** and that they possess **valid title documents, proof of continuous possession since before 2014**, and eligibility under the **Recognition of Property Rights Act, 2019**.

Ahmad emphasized that the properties now threatened with demolition were **not part of the area explicitly covered by the earlier order**, and that **certain structures had been "arbitrarily picked up" for demolition**. He stated that the current application was not an independent writ but an **intervention in the existing contempt petition**, aiming to clarify the scope of the demolition and secure relief for residents outside the targeted zone.

After examining the application, **CJI Gavai acknowledged that the demolition was pursuant to Supreme Court orders**, but reiterated that procedural fairness must be observed. Though hesitant at first, **the CJI agreed to list the matter for hearing next week** after the counsel persisted.

10. Supreme Court Quashes Rape Case over Unenforceable Promise of Marriage in Consensual Relationship

Case Title: Amol Bhagwan Nehul v. State of Maharashtra & Anr.

Citation: 2025 LiveLaw (SC) 641

Court: Supreme Court of India

Bench: Justices B.V. Nagarathna and S.C. Sharma

Date of Judgment: May 2025

In a significant judgment reaffirming the distinction between consensual relationships and cases of sexual assault under the pretext of false promise of marriage, the **Supreme Court in *Amol Bhagwan Nehul v. State of Maharashtra & Anr.* [2025 LiveLaw (SC) 641] quashed an FIR** against a 25-year-old student accused of rape by a woman who was **already married at the time their relationship began**.

The accused had challenged the **Bombay High Court's refusal to quash FIRs** registered under Sections **376, 376(2)(n), 377, 504, and 506 of the IPC**, alleging sexual assault, unnatural sex, intentional insult, and criminal intimidation. The complainant, a married but separated woman with a four-year-old child, alleged that she was sexually exploited under a **false promise of marriage**.

The Court held that such a promise was inherently unenforceable, given that the complainant was legally married when the relationship commenced. It noted, "**Such promise, to begin with, was illegal and unenforceable qua the Appellant**." Therefore, the woman's consent **could not be said to have been obtained under any misconception of fact**, as contemplated under **Section 90 of the IPC**.

The bench emphasized that not every breach of promise to marry amounts to rape, reiterating that there must be evidence of **fraudulent intent or misrepresentation at the inception of the relationship**. In the absence of such intent, the criminal justice system **should not be weaponized to penalize consensual adult relationships that later deteriorate**.

Justice S.C. Sharma, authoring the judgment, relied on established precedent, including the **Bhajan Lal case**, to hold that continuation of the criminal proceedings would be an **abuse of process of law**. The Court also took note of the complainant's conduct — including sustaining the relationship over 12 months and visiting the accused on multiple occasions — which it found inconsistent with the allegation of rape.

The Court noted, **"The narrative of the Complainant/Respondent no. 2 does not corroborate with her conduct."** It also found no material to support claims that the accused had **induced or misled** the complainant into a physical relationship. Further, the alleged divorce deed (*Khulanama*) was executed **after the relationship had begun**, undermining the claim that the complainant had relied on a promise of marriage when still in a valid marital bond.

In conclusion, the Supreme Court observed that the case **lacked essential elements of a cognizable offence** and that the proceedings **amounted to misuse of the legal machinery**, affecting the dignity and liberty of the accused.

Accordingly, the **FIR was quashed**, and the appeal was **allowed**

11. Prelims Q&A

1. An act, to be called on 'act of a firm', within the meaning of Section 2(a) of the Indian Partnership Act, 1932 is—

a. Every act of the partners

b. Only such acts which give rise to a right enforceable by or against the firm
c. Such acts which do not give rise to a right enforceable by or against the firm
d. Either (a) or (b) or (c)

Correct Answer:B

Explanation: The correct answer is option (b): "Only such acts which give rise to a right enforceable by or against the firm". This interpretation aligns with Section 2(a) of the Indian Partnership Act, 1932, which defines an act of the firm as those actions undertaken by partners that bind the firm legally. This means any act that can create legal obligations or rights for the firm qualifies as an act of the firm.

2. Under Section 2(b) of the Indian Partnership Act, 'business' includes
a. Every trade and occupation
b. Every occupation and profession
c. Every trade, occupation and profession
d. Every trade and profession

Correct Answer:C

Explanation: The correct answer is option (c): "Every trade, occupation and profession". According to Section 2(b) of the Indian Partnership Act, 1932, 'business' is broadly defined to include any trade, occupation, or profession. This inclusive definition ensures that partnerships can be formed across various economic activities without limitation to specific types.

3. "Partnership" means
a. Joint venture
b. Agreement between the persons to share the profit of a business carried on between them
c. Agreement between the persons to do some work
d. None of the above

Correct Answer:B

Explanation: The correct answer is option (b): "Agreement between the persons to share the profit of a business carried on between them". This encapsulates the essence of a partnership, where two or more people agree to share the profits (and possibly losses) of a business venture. It highlights the collaborative and financial-sharing aspects fundamental to partnerships.

4. The true test of partnership is based on
a. Sharing of profit only
b. Sharing of profit and loss
c. Mutual agency
d. Intention of the parties

Correct Answer:C

Explanation: The correct answer is option (c): "Mutual agency". The true test of partnership under the Act is mutual agency, where each partner acts as both an agent and a principal, binding the firm while carrying out business activities in the firm's name. This mutual agency concept is central to understanding partnerships' operational dynamics.

5. Which of the following is a strong but not sufficient test of partnership
a. Sharing of profits
b. Sharing of losses
c. Either of the two
d. None of the above

Correct Answer:A

Explanation: The correct answer is option (a): "Sharing of profits". Sharing profits is a strong indicator of a partnership but not conclusive on its own, as it must be accompanied by other factors such as mutual agency and shared control of the business to establish a legal partnership.

6. Upon the coming into force of the Limited Liability Partnership Act, 2008:
a. The Indian Partnership Act, 1932 stands repealed
b. The provisions of the Indian Partnership Act, 1932 ipso facto apply

to Limited Liability Partnership (LLPs) also
c. Both the Acts co-exist but the provisions of the Indian Partnership Act, 1932 are not applicable to LLPs save as otherwise provided
d. The Limited Liability Partnership Act, 2008 is applicable to only metropolitan cities as defined therein and the Indian Partnership Act, 1932 continues to apply to the rest of the country.

Correct Answer: C

Explanation: The correct answer is option (c): "Both the Acts co-exist but the provisions of the Indian Partnership Act, 1932 are not applicable to LLPs save as otherwise provided". The introduction of the Limited Liability Partnership Act, 2008 did not repeal the Indian Partnership Act, 1932; instead, it provided a new structure where LLPs operate under different regulations, with the traditional partnership act continuing alongside but not governing LLPs.

7. The historic case laying down the test for determining the existence of partnership is
a. Grave v. Smith
b. Waugh v. Carver
c. Bloream v. Pell
d. Cox v. Hickman

Correct Answer:D

Explanation:The correct answer is option (d): "Cox v. Hickman". This case laid down significant principles regarding the test for the existence of a partnership, focusing on mutual agency and the parties' intention, thereby influencing the legal framework and understanding of partnerships extensively.

8. In which of the following cases, a partnership exist:
a. Several persons jointly purchase goods for resale with a view to divide the profits arising from the transaction.
b. Persons (co-owners) who join in the purchase of goods for the purpose of dividing the goods themselves.
c. A, B and C agreed that each should furnish Rs. 3000 worth of goods to be shipped on a joint venture, the profits to be divided between them according to the amount of their several shipments.
d. Two tenants in common of a house let it and divide the rent equally.

Correct Answer: A

Explanation:The correct answer is option (a): "Several persons jointly purchase goods for resale with a view to divide the profits arising from the transaction". This scenario indicates a partnership as it involves the joint operation of a business with the intent to share profits, a core element of a partnership.

9. A partnership firm is
a. A distinct legal entity from its partners
b. Not a distinct legal entity from its partners
c. A juristic person
d. None of the above

Correct Answer: B

Explanation: The correct answer is option (b): "Not a distinct legal entity from its partners". Unlike corporations, partnerships in Indian law are not considered separate legal entities from the partners themselves, meaning the partners are personally liable for the firm's obligations.

10. Which of the following is not an essential feature of partnership ?
a. Result of an agreement
b. Organised to carry on business
c. Carried on by all or any of them acting for all
d. Separate legal entity

Correct Answer: D

Explanation: The correct answer is option (d): "Separate legal entity". A partnership, unlike a corporation, does not form a separate legal entity from its partners. This

characteristic distinguishes it from other business structures where the entity is legally distinct from its founders or shareholders.

12. MAINS Q&A

Question:

What are the essentials of a valid Hindu marriage?

Answer:

A valid Hindu marriage, as defined under the Hindu Marriage Act, 1955, is contingent upon fulfilling certain essential conditions. These essentials establish the legal framework within which Hindu marriages are recognized and governed. The failure to meet any of these conditions can render a marriage void or voidable, depending on the nature of the non-compliance.

Essentials of a Valid Hindu Marriage

Eligibility of Parties:

- **Hindu by Religion:** Both parties must be Hindus by religion at the time of the marriage. This includes any person who is a Hindu, Buddhist, Jain, or Sikh by religion, as well as anyone who has converted or reconverted to these religions.

Monogamy:

- **No Prior Marriage:** Section 5(i) of the Act states that neither party should have a living spouse at the time of marriage. The practice of monogamy is strictly enforced, making bigamy a ground for rendering a marriage voidable.

Mental Capacity:

- **Mental Soundness:** Both parties should be capable of giving valid consent. They must be of sound mind and should not suffer from any mental disorder of such a kind or to such an extent as to be unfit for marriage and procreation of children.

Age Requirement:

- **Legal Age:** The bridegroom should be at least 21 years old, and the bride should be at least 18 years old at the time of marriage. Marriages involving individuals below these ages are considered child marriages and are subject to legal consequences, though they are not void ab initio.

Valid Consent:

- **Free Consent:** Consent for the marriage must be free and not obtained by force or fraud. A marriage where consent is obtained under duress or misrepresentation can be annulled.

Prohibition of Sapinda and Degree of Prohibited Relationship:

- **Not within Prohibited Relationships:** Parties should not fall within the degrees of prohibited relationship, unless their custom or usage governing each of them permits such a marriage.
- **Not Sapindas of Each Other:** Parties should not be sapindas of each other. A sapinda relationship extends up to three generations in the line of ascent through the mother, and five generations in the line of ascent through the father.

The essentials of a valid Hindu marriage, as laid down by the Hindu Marriage Act, 1955, form the bedrock of marital law for Hindus in India. These provisions aim to ensure the legal, ethical, and societal appropriateness of matrimonial alliances. They reflect a blend of traditional Hindu matrimonial norms and contemporary legal principles, aimed at safeguarding the interests of individuals entering into marital bonds while upholding the sanctity of the marital institution.

13. CLEAR CONCEPTS

Key Concept: Evidentiary Value of Accomplice Testimony and the Evolution of Section 138 of the Bharatiya Sakshya Adhiniyam (BSA)

For judiciary aspirants, a crucial concept in the law of evidence is the **admissibility and reliability of accomplice testimony**, particularly in criminal trials. This concept is governed by **Section 133 of the Indian Evidence Act, 1872**, and **illustration (b) to Section 114**, both of which have been re-enacted under the **Bharatiya Sakshya Adhiniyam, 2023 (BSA)** as **Section 138** and **illustration (b) to Section 119(1)**, respectively.

Core Principle:

An **accomplice is a competent witness**, and a conviction **can be legally sustained** on his testimony. However, as a matter of **judicial prudence**, courts **ordinarily insist on corroboration in material particulars** before relying on such testimony. This duality—between a *legal rule* and a *rule of prudence*—is central to the understanding of this area.

Landmark Case Laws:

1. **Bhiva Doulu Patil v. State of Maharashtra (AIR 1963 SC 599)**
   The Supreme Court clarified that Section 133 (rule of law) and Section 114(b) (rule of caution) must be read together. **Conviction based solely on an accomplice's uncorroborated testimony is not illegal**, but **courts, as a matter of practice, usually seek corroboration.**
2. **Haricharan Kurmi v. State of Bihar (AIR 1964 SC 1184)**
   The Constitution Bench held that while accomplice evidence is substantive, **it is tainted**, and hence courts must **insist on corroboration**. This judgment enshrined the **prudence principle** as an established judicial norm.

3. **R v. Baskerville (1916 2 KB 658)**
   This English judgment, cited with approval in Indian decisions, held that although **a conviction based on uncorroborated accomplice evidence is legally permissible**, it is **unsafe and undesirable** to rely solely on such testimony. It laid the foundation for the **modern corroboration rule**.

4. **Somasundaram v. State (2020)**
   A three-judge Bench reiterated that **corroboration must connect the accused to the crime** and cannot be based merely on the testimony of another accomplice. **Circumstantial evidence** can suffice as corroboration if it **renders the approver's version believable**.

Change Introduced in the BSA:

- **Old Law (Section 133 of Evidence Act):** Allowed conviction on **uncorroborated** accomplice testimony.
- **New Law (Section 138 of BSA):** Allows conviction only if **testimony is corroborated**—aligning statutory text with the **judicially established rule of caution** under illustration (b) to Section 119(1) (earlier Section 114).

Relevance for Judiciary Aspirants:

This area tests a candidate's understanding of how **legal rules and prudential norms interact**. While the **BSA seeks to eliminate textual contradiction**, the **substantive position of law remains unchanged**—an accomplice's testimony must be **corroborated** to be safely relied upon.

Aspirants must grasp:

- The **evidentiary status of an accomplice**.
- The **difference between legal competence and reliability**.
- The **continued relevance of corroboration**, now embedded more clearly in statute post-BSA.

In practice, **this principle protects against wrongful conviction based on tainted evidence**, while **enabling prosecution** when corroborative material supports the accomplice's statement. It embodies a critical balance between **judicial caution and prosecutorial necessity**.