Weekly Judiciary Digest

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Current & Conceptual Weekly

22nd July to 28th July, 2025

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1. Acknowledgment of Partial Debt Does Not Extend Limitation for Entire Claim: Supreme Court Clarifies Scope of Section 18 of Limitation Act

Case Title: M/s. Airen and Associates v. M/s. Sanmar Engineering Services Limited

Citation: 2025 LiveLaw (SC) 745

Court: Supreme Court of India

Bench: Justices Sanjay Kumar and S.C. Sharma

Date: July 2025

In a significant ruling on the interpretation of **Section 18 of the Limitation Act, 1963, the Supreme Court of India has reaffirmed that acknowledgment of a part of a debt does not revive or extend the limitation period for the entire outstanding claim.** The judgment, delivered by a bench comprising **Justices Sanjay Kumar and S.C. Sharma,** clarifies the limited scope of Section 18 in cases involving partial acknowledgments by debtors.

The case arose from a commercial dispute where the appellant, **M/s. Airen and Associates,** filed a suit for recovery of **₹3,07,115.85** along with interest at 18% per annum, based on an alleged outstanding amount from the respondent, **M/s. Sanmar Engineering Services Ltd.** However, the debtor, while replying to the claim, acknowledged liability only to the extent of ₹27,874.10, and expressly disputed the balance. The appellant contended that such acknowledgment should extend the limitation period for the entire amount under Section 18.

The **trial court dismissed the suit,** holding it as time-barred except to the extent of the acknowledged amount. On appeal, the **Chhattisgarh High Court upheld the trial court's view**, allowing recovery only of the acknowledged sum and reiterating that the benefit of **Section 18 cannot be extended to the entire debt when acknowledgment is partial and specific.**

The appellant then approached the Supreme Court, which dismissed the appeal, concurring with the reasoning of the High Court. The Court observed that **"there was no acknowledgment of the full amount claimed by the appellant, in terms of the requirement prescribed in Section 18 of the Act of 1963, [hence] the question of extending the period of limitation for the entire suit claim of the appellant did not arise."**

The judgment emphasized that an acknowledgment under Section 18 must be **"clear and unambiguous"** regarding the debt in question. Referring to the precedent set in **J.C. Budhraja v. Chairman, Orissa Mining Corporation Ltd. & Anr., (2008) 2 SCC 444**, the Court reiterated that **acknowledgment under Section 18 can extend limitation only with respect to the amount admitted to be due, not beyond that**.

2. Constitutional Freeze on Delimitation Until Post-2026 Census Figures: Supreme Court Clarifies Article 170(3)

CaseTitle: K. Purushottam Reddy v. Union of India & Ors., W.P. (C) No. 488/2022 (and connected case)

Citation: 2025 LiveLaw (SC) 741

Court: Supreme Court of India

Bench: Justices Surya Kant and N. Kotiswar Singh

Date: July 2025

In a constitutionally significant ruling, the **Supreme Court of India** has held that **Article 170(3) of the Constitution places a clear embargo on any delimitation exercise for State Legislative Assemblies until the publication of figures from the first census conducted after the year 2026**.

The judgment came while dismissing a plea seeking immediate delimitation for the States of **Andhra Pradesh and Telangana**, akin to the delimitation carried out for the Union Territory of **Jammu and Kashmir**.

The petitioners argued that **excluding Andhra Pradesh and Telangana from the delimitation process while conducting it for Jammu and Kashmir amounted to discriminatory treatment**, violating the equality principle under **Article 14**. They also relied on provisions of the **Andhra Pradesh Reorganisation Act**, contending that the act justified the demand for an early delimitation.

However, the Union of India, supported by the **Election Commission**, contended that **both Articles 82 and 170—specifically their provisos—bar any such delimitation until relevant census data from the post-2026 census is published**. This constitutional freeze, according to the Centre and the Commission, applies uniformly to all States, including Andhra Pradesh and Telangana.

The **Supreme Court agreed with this interpretation**, holding that the **proviso to Article 170(3) "unequivocally and overarchingly" bars readjustment of assembly seats or territorial constituencies until the first census figures after 2026 are available**. The Court emphasized that **granting an exception to this constitutional prescription would undermine the principle of uniformity and electoral balance enshrined in the Constitution**.

The Court observed that entertaining the petitioner's demand would **open the floodgates to similar requests by other states**, thereby **destabilizing the uniform electoral architecture envisaged by the framers of the Constitution**. It cautioned that allowing such an exception would **blur the boundary between constitutional mandate and political discretion**, and constitute an **impermissible deviation from Article 14**, amounting to **"a facially discriminatory practice without any valid classification."**

The Court further noted that the **Andhra Pradesh Reorganisation Act must operate within the confines of the Constitution**, and cannot override or dilute the express terms of Article 170(3). Hence, the plea for early delimitation was held to be untenable in law.

3. Justice Yashwant Varma Challenges In-House Committee Report Before Supreme Court in Cash-at-Residence Controversy

Case Title : XXX v. Union of India & Another

Diary No.: 38664/2025

Court: Supreme Court of India

Bench: Justices Dipankar Datta and Augustine George Masih

Date of Hearing: Scheduled for July 28, 2025

In a matter raising crucial questions about **judicial accountability, due process, and the scope of in-house mechanisms**, the **Supreme Court of India** is set to hear a writ petition filed by **Justice Yashwant Varma**, challenging the report of an **in-house inquiry committee** which had indicted him in connection with a **cash-at-residence controversy**.

The incident pertains to the **discovery of a large sum of currency notes** in an outhouse at Justice Varma's official residence during a **fire-fighting operation on March 14, 2025**, when he was serving as

a judge of the Delhi High Court. Following public outcry, the then **Chief Justice of India Sanjiv Khanna** constituted a **three-member in-house committee**, comprising **Justice Sheel Nagu**, **Justice G.S. Sandhawalia**, and **Justice Anu Sivaraman**, to investigate the matter. Pending inquiry, Justice Varma was repatriated to the **Allahabad High Court**, and his **judicial work was withdrawn**.

The committee submitted its report in May 2025, which concluded that Justice Varma's conduct post-incident was **"unnatural"**, leading to **adverse inferences**. The panel held that the **storeroom where the cash was found** was under the **"covert or active control"** of Justice Varma and his family. Upon finding no plausible explanation offered—apart from a **flat denial and allegations of conspiracy**—the committee held that the burden lay on Justice Varma to justify the presence of cash and that he had **failed to discharge this burden**. Consequently, **CJI Khanna recommended impeachment**, forwarding the report to the **President and Prime Minister**.

A **motion for impeachment** has since been moved in **Parliament,** which is currently in session.

Justice Varma's writ petition, titled anonymously as *XXX v. Union of India*, challenges the **fairness and legality of the in-house committee's procedure and findings**. He contends that he was **not afforded a proper opportunity to respond** and that the **committee acted with a predetermined mindset**, allegedly **reversing the burden of proof** in violation of the principles of natural justice.

A group of senior advocates—**Kapil Sibal, Mukul Rohatgi, Rakesh Dwivedi, Sidharth Luthra, and Siddharth Aggarwal**—had earlier mentioned the matter before **CJI B.R. Gavai**, who directed the case to be listed before a bench that does not include him.

This matter underscores the **delicate balance between judicial independence and institutional integrity**, and is particularly instructive for judiciary aspirants. It provides insight into how **in-house mechanisms** function in cases involving alleged judicial impropriety, the **procedural safeguards available**, and the **constitutional framework for removal of judges under Article 124(4) and the Judges (Inquiry) Act, 1968**.

As the Supreme Court prepares to hear the case, it remains to be seen whether **procedural deficiencies in the internal probe** can invalidate a report forming the basis for **constitutional action against a sitting High Court judge**. The case is poised to become a landmark in defining the **jurisdictional limits of judicial inquiries and the rights of judges facing institutional scrutiny**.

4. Supreme Court Bars Retrospective Application of Amended POCSO Penalty, Upholds Article 20(1) Protection

Case Title: Satauram Mandavi v. The State of Chhattisgarh & Anr.

Arising Out of: SLP (Crl) No. 13834 of 2024

Citation: 2025 LiveLaw (SC) 744

Court: Supreme Court of India

Bench: Justices Vikram Nath and Sandeep Mehta

Date of Judgment: July 25, 2025

In a significant reaffirmation of **Article 20(1) of the Constitution**, the **Supreme Court of India** has modified the sentence of a convict under the **Protection of Children from Sexual Offences (POCSO) Act, 2012**, holding that **retrospective application of the amended sentencing provision under Section 6 is unconstitutional**.

The appellant, *Satauram Mandavi*, had been convicted by the Trial Court for the **rape of a 5-year-old minor**, under **Section 376AB of the Indian Penal Code, 1860** and **Section 6 of the POCSO Act**. While the conviction itself was upheld by both the **Trial Court and the Chhattisgarh High Court**, the sentence imposed was **life imprisonment till the remainder of natural life**, as per the **amended Section 6 of the POCSO Act**, introduced by the **2019 Amendment**.

The appellant challenged only the sentence before the Supreme Court, contending that the **incident occurred on May 20, 2019**, while the **amendment enhancing the sentence** came into force on **August 16, 2019**. Therefore, applying the harsher amended provision **retrospectively** was violative of his **fundamental rights**.

The **Supreme Court found merit** in this argument. Referring to the **pre-amendment Section 6**, the Court noted that the punishment ranged from **a minimum of 10 years to life imprisonment**, but **did not include the phrase "remainder of natural life"**. The **amended Section 6**, which introduced the harsher sentence and even permitted **capital punishment**, could not be applied retrospectively, especially in a **criminal trial**.

Citing **Article 20(1) of the Constitution**, the Court emphasized that **no person can be subjected to a greater penalty than what was prescribed at the time of the offence**. The Court observed:

"**The Constitutional bar against retrospective imposition of a harsher penalty under Article 20(1) is clear and absolute.** The Trial Court, in applying the enhanced sentence introduced by the 2019 Amendment, has effectively subjected the appellant to a punishment greater than what was permissible under the law in force on the date of the offence."

Accordingly, the Supreme Court **upheld the conviction** but **modified the sentence** to **rigorous imprisonment for life** under the **unamended Section 6 of POCSO**, aligning it with the penal framework in force on the date of the offence. The fine of **₹10,000** was also sustained.

This judgment serves as a crucial precedent for judiciary aspirants to understand the **non-retroactivity principle in criminal jurisprudence**, particularly in the context of **constitutional protections under Article 20(1)**. It highlights that **sentencing in criminal law is strictly bound by the law applicable on the date of the offence**, and any departure from this would be a **clear violation of the accused's fundamental rights**.

The case also reiterates the judiciary's role in **safeguarding the rule of law**, even in cases involving heinous crimes, by ensuring that **constitutional safeguards are not compromised in the pursuit of retribution or public sentiment**.

5. Supreme Court Declares Mental Health Integral to Right to Life, Issues Nationwide Guidelines for Student Well-being

Case Title: Sukdeb Saha v. The State of Andhra Pradesh & Ors.

Citation: 2025 LiveLaw (SC) 740

Court: Supreme Court of India

Bench: Justices Vikram Nath and Sandeep Mehta

Date of Judgment: July 2025

In a landmark decision aimed at addressing the mental health crisis among students, the **Supreme Court of India** has ruled that the **right to mental health is an inalienable component of the fundamental right to life and dignity under Article 21 of the Constitution**. This pronouncement came while the Court issued **fifteen binding guidelines** for educational institutions and coaching centres to ensure psychological well-being among students, pending the enactment of a comprehensive legislation.

The judgment emerged from a petition that drew attention to the growing number of student suicides in the country, particularly in **competitive academic environments**. The Court noted with concern that the **current academic culture, especially within coaching centres**, emphasizes **performance, rankings, and conformity**, while neglecting **mental wellness, curiosity, and holistic growth**. It observed that **students are often pushed into a relentless cycle of tests**, where **failure is treated not as a step in learning but as personal devastation**.

The bench stated that **education is meant to liberate, not burden**, and that its goal should be the **development of confident, dignified individuals**, rather than just successful test-takers. The **toxic result-centric system**, the Court held, undermines the constitutional vision of **life with dignity**.

In grounding its reasoning, the Court reaffirmed the **constitutional protection of mental health as part of Article 21**, drawing on key precedents like *Shatrughan Chauhan v. Union of India* and *Navtej Singh Johar v. Union of India*, which recognized **psychological autonomy and mental integrity** as essential elements of dignity. The Court also emphasized the relevance of the **Mental Healthcare Act, 2017**, which guarantees **access to mental health services (Section 18)** and **decriminalizes attempted suicide (Section 115)**, reaffirming the legal shift toward **care and support rather than penalisation**.

Internationally, the Court cited India's obligations under the **International Covenant on Economic, Social and Cultural Rights (ICESCR)** and the **UN Convention on the Rights of Persons with Disabilities (CRPD)**, both of which underscore the **right to accessible, non-discriminatory mental healthcare**. It also referenced the **World Health Organisation's Mental Health Action Plan (WHA66.8)**, which identifies **suicide prevention as a global health priority**.

Finding that India **lacks a comprehensive, enforceable framework** to address student suicides and mental health challenges in educational settings, the Court issued **fifteen binding guidelines**, applicable **nationwide**. These aim to create supportive, empathetic academic environments and include provisions for mental health counselling, stress management training, grievance redressal mechanisms, and the regulation of coaching institutions.

6. Amendment to Complaint Permissible at Post-Cognizance Stage if No Prejudice is Caused: Supreme Court Clarifies Procedural Flexibility under NI Act

Case Title: Bansal Milk Chilling Centre v. Rana Milk Food Private Ltd. & Anr.

Citation: 2025 LiveLaw (SC) 743

Court: Supreme Court of India

Bench: Justices B.V. Nagarathna and K.V. Viswanathan

Date of Judgment: July 25, 2025

In a significant procedural ruling, the **Supreme Court of India** has clarified that **an amendment to a complaint under Section 138 of the Negotiable Instruments Act, 1881 is permissible even at the post-cognizance stage**, provided that it **does not cause prejudice to the accused** and the **complainant's cross-examination is still pending**.

The case arose from a dispute over a dishonoured cheque, wherein the complainant—*Bansal Milk Chilling Centre*—sought to amend its complaint to **correct a typographical error** in the description of goods supplied. While the original complaint and legal notice mentioned **"Desi Ghee (milk products)"**, the complainant clarified that the actual item supplied was **"milk"**, and the reference to "Desi Ghee" was an **inadvertent mistake**.

The **Trial Court allowed the amendment**, but the order was challenged by the accused. Eventually, the matter reached the Supreme Court.

The apex court bench, while allowing the appeal and restoring the Trial Court's order, observed that **the amendment did not alter the fundamental nature of the complaint** and was merely a **curable irregularity**. Since **no cross-examination of the complainant had been conducted**, and the complainant's chief-examination had only just concluded, the Court held that **no prejudice was caused** to the accused.

The judgment, authored by **Justice K.V. Viswanathan**, cited **R. Sukumar v. S. Sunaad Raghuram (2015) 9 SCC 609**, where the Supreme Court had previously held that **the concept of amendment is not foreign to criminal proceedings**. The Court also drew support from **Sections 216 and 217 of the Criminal Procedure Code**, which allow alterations to charges during trial, provided the accused is not prejudiced and has adequate opportunity to defend themselves.

Importantly, the Court emphasized that **procedural flexibility must not come at the cost of fairness**, but when **no miscarriage of justice is likely**, such amendments should be allowed in furtherance of truth and efficiency in trials. The Court noted:

"**It could not be said that by allowing the amendment at a stage when the evidence of the complainant was incomplete, failure of justice would occasion.**"

This decision has practical significance for judiciary aspirants, especially in understanding the **balance between procedural rigour and judicial discretion** in criminal trials. It reinforces that **complaints under the NI Act, being quasi-criminal in nature, are not immune to procedural corrections**, especially when they serve the cause of justice and ensure fair trial principles under Article 21 of the Constitution.

The ruling also underlines that **typographical or clerical errors**, when brought to the Court's notice at a proper stage, should be **liberally corrected**, as long as the **substantive rights of the accused are preserved**.

Ultimately, the Supreme Court's verdict strengthens the jurisprudence that **fair procedure includes the right to correct an honest mistake**, ensuring that **form does not override substance** in criminal justice delivery.

7. Delhi Government Seeks Review of Supreme Court's Ban on 10-Year Diesel and 15-Year Petrol Vehicles in NCR

Case Title: Government of NCT of Delhi v. Union of India & Ors. (Review Petition in Civil Appeal No. 2025 of 2018)

Court: Supreme Court of India

Date of Listing: July 28, 2025 (Tentative)

Citation: [Pending Review – Based on 2018 Judgment Upholding NGT Order]

In a significant development concerning environmental regulation and vehicular rights, the **Government of the National Capital Territory (NCT) of Delhi** has moved the **Supreme Court of India** seeking **review of its 2018 judgment** that upheld the **National Green Tribunal's (NGT) directive** banning **diesel vehicles older than 10 years** and **petrol vehicles older than 15 years** from operating in the **National Capital Region (NCR)**.

The original NGT directive, issued in **2015**, aimed at controlling the severe air pollution in Delhi-NCR by phasing out older vehicles deemed environmentally detrimental. This direction was later affirmed by the Supreme Court in **2018**, resulting in a blanket age-based restriction on the operation of such vehicles.

However, in its **review petition**, the **Delhi Government argues that the environmental landscape has evolved** significantly since 2018. It submits that **stricter emission norms**, **enhanced pollution control mechanisms**, and **expanded coverage of Pollution Under Control (PUC) certifications** have been implemented, rendering the age-based ban **outdated and overly rigid**.

The petition further urges the Court to **direct the Central Government and the Commission for Air Quality Management (CAQM)** to **conduct a scientific, evidence-based study** on the **actual environmental impact** of such age-based bans. The Delhi Government suggests that **regulatory emphasis should now shift from the age of vehicles to actual emission levels**, making pollution control more **targeted and efficient**.

The review plea also comes in the wake of **public discontent** regarding recent enforcement measures. In **2024**, the Delhi Government issued the **"Guidelines for Handling End-of-Life Vehicles in Public Places of Delhi"**, followed by a **directive barring refuelling of banned vehicles at fuel stations** from **July 1, 2025**. This move triggered backlash, leading to a **temporary suspension of the order**.

Meanwhile, **Chief Justice of India B.R. Gavai** has agreed to hear, on **July 28**, a **separate application by a private individual** seeking **exemption for BS-VI compliant vehicles** from the age-based prohibition, arguing that **modern vehicles meeting Bharat Stage VI emission standards** should not be penalized merely due to age.

For judiciary aspirants, this case presents a vital intersection of **environmental law**, **administrative regulation**, and **constitutional rights**, highlighting key issues such as:

- **Judicial enforcement of environmental norms** under Articles 21 and 48A of the Constitution
- The **role of scientific data** in shaping sustainable regulatory frameworks
- The **evolution of judicial review** mechanisms, especially through **review petitions**
- The balance between **public interest (clean air)** and **individual rights (mobility and property)**

As the Supreme Court reconsiders the validity of its earlier ruling in light of updated environmental realities, this matter is likely to have far-reaching implications for **urban governance, environmental justice**, and the **future of vehicular regulation** in India.

8. Magistrate's Power Under Section 156(3) CrPC Valid Even Without Prior Resort to Section 154(3): Supreme Court

Case Title: Anurag Bhatnagar & Anr. v. State (NCT of Delhi) & Anr.

Citation: 2025 LiveLaw (SC) 742

Court: Supreme Court of India

Bench: Justices Pankaj Mithal and SVN Bhatti

Date of Judgment: July 25, 2025

In a crucial ruling affirming the scope of a magistrate's powers during the pre-cognizance stage of criminal proceedings, the **Supreme Court of India** has held that **a magistrate's direction for police investigation under Section 156(3) of the CrPC cannot be invalidated solely on the ground that the complainant failed to first pursue alternative remedies under Section 154(3)**.

The case arose from a challenge by the appellants—**Anurag Bhatnagar and another**, directors of **VLS Finance Ltd.**, who contended that the **magistrate's order dated 01.07.2005**, directing the registration of an FIR and investigation, was procedurally flawed. The grievance stemmed from the fact that the **complainant had not first approached the Superintendent of Police under Section 154(3)** CrPC, an alternative statutory remedy before invoking Section 156(3).

The **Delhi High Court** had previously dismissed their plea, prompting the appellants to approach the apex court. However, the **Supreme Court refused to interfere**, observing that **while the magistrate ought to ordinarily insist on the exhaustion of Section 154(3) remedies**, the **failure to do so is a procedural irregularity, not a jurisdictional defect**.

The judgment, authored by **Justice Pankaj Mithal**, reiterated that if the **magistrate applies his judicial mind** and finds that the **allegations disclose a cognizable offence**, he is **empowered under Section 156(3) CrPC to direct the police to register an FIR**, even if the complainant skipped prior procedural steps.

The Court emphasized:

"**The Magistrate ought not to ordinarily entertain an application under Section 156(3) CrPC directly unless the informant has exhausted his remedies under Section 154(3).** However, if the

complaint discloses a cognizable offence and the magistrate has applied his mind, then **such an order is not illegal or without jurisdiction**, even if irregular."

It further clarified that the order in question **did not amount to cognizance under Section 190 CrPC**, but merely **set the criminal law in motion**, leaving the matter to be investigated further by the police.

The Court distinguished between **procedural irregularity and illegality**, stating that **no prejudice was caused to the accused** by the magistrate's action, and thus no interference was warranted. Consequently, the **appeal was dismissed**, and both the **magistrate's and High Court's orders were upheld**.

This ruling is instructive for judiciary aspirants as it demonstrates the **substantive interpretation of procedural provisions** in criminal law. It reinforces that the **essence of justice prevails over technical lapses**, provided the magistrate exercises due diligence and the complaint reveals a **prima facie cognizable offence**. The decision also reinforces the judiciary's **cautious approach in balancing procedural rigour with the objectives of criminal law**—namely, fair trial and efficient investigation.

9. Kerala High Court Declares Illegality of Unexplained High-Value Cash Transactions as a Bar to NI Act Prosecution

Case Title: P.C. Hari v. Shine Varghese & Anr.

Case No.: Crl. Rev. Pet. No. 408/2024

Citation: 2025 LiveLaw (Ker) 451

Court: Kerala High Court

Bench: Justice P.V. Kunhikrishnan

Date of Judgment: July 2025

In a landmark judgment on the interplay between tax laws and negotiable instruments, the **Kerala High Court** ruled that **a debt created through a cash transaction above ₹20,000/- in violation of the Income Tax Act, 1961 cannot be treated as a "legally enforceable debt"** under the **Negotiable Instruments Act, 1881**, **unless there is a valid explanation under Section 273B of the IT Act**.

The Court was deciding a revision petition filed by the accused in a case under **Section 138 NI Act**, where the complainant had alleged that he gave **₹9 lakhs in cash** to the accused, and the cheque issued in repayment was dishonoured due to insufficient funds. Both the trial and appellate courts had convicted the accused. However, before the High Court, the accused contended that the **cash transaction violated Section 269SS of the IT Act**, which mandates that amounts above ₹20,000 must be paid through account-payee instruments or electronic transfer, not cash.

Justice P.V. Kunhikrishnan held that **"a debt arising from a transaction that is illegal under the Income Tax Act cannot be legally enforceable"**, thereby impacting the presumption under **Section 139 of the NI Act**. However, the Court clarified that the presumption under Section 139 still applies unless rebutted by the accused through **preponderance of probabilities**. If the accused fails to raise a

challenge or rebut the presumption, it is presumed that a valid explanation under **Section 273B of the IT Act** exists.

Relying on the **Bombay High Court's ruling in *Prakash Madhukarrao Desai v. Dattatraya Sheshrao Desai*** and scholarly writings on the subject, the Court acknowledged that **criminal courts should not indirectly validate such cash transactions**, as doing so **undermines India's legal regime aimed at curbing black money and parallel economy**, especially in light of the **Digital India initiative**.

Importantly, the Court held that the **ruling will apply only prospectively**. If the issue was **not raised during trial**, then **appellate courts need not reopen such cases**.

Addressing four key issues, the Court reaffirmed that:

1. **Section 139 presumption includes legally enforceable debts**;
2. **This presumption can be rebutted through evidence casting doubt on the existence of the debt**;
3. **Cash transactions above ₹20,000 in violation of Section 269SS are not enforceable unless validly explained**; and
4. **In this case, the accused successfully rebutted the presumption**, as the complainant admitted to paying cash and failed to justify it under Section 273B.

Consequently, the **High Court set aside the conviction**, holding that **criminal courts should not become vehicles for enforcing illegal cash-based debts**. This ruling is a critical development for judiciary aspirants as it merges concepts from **tax law, criminal procedure, and the law of negotiable instruments**, emphasizing that **legality of the underlying transaction is foundational to NI Act prosecutions**.

10. Centre Opposes Proposal to Reduce Age of Consent Under POCSO, Affirms 18 as a Bright-Line Standard for Child Protection

Case Title : Nipun Saxena v. Union of India

Case No.: Writ Petition (Civil) No. 565 of 2012

Court: Supreme Court of India

Filed Submissions Date: July 2025

In a detailed submission before the **Supreme Court** in the ongoing Public Interest Litigation aimed at strengthening the criminal justice system's response to sexual offences, the **Union of India** has firmly **opposed any proposal to reduce the statutory age of consent under Indian law from 18 years**, reiterating that the current threshold is constitutionally sound, legislatively consistent, and crucial for **protecting children from exploitation**.

Responding to suggestions made by **Amicus Curiae, Senior Advocate Indira Jaising**, including the idea of reading in a "close-in-age" exception to decriminalise consensual sexual activity between adolescents aged 16 to 18 years, the **Centre rejected any such judicial or legislative dilution**, stating

that such reform would **undermine the core protective purpose of the POCSO Act, 2012 and the Bharatiya Nyaya Sanhita (BNS)**.

The Centre emphasized that the **age of consent has been fixed at 18** as part of a **deliberate and coherent legislative policy**, supported by constitutional mandates under **Articles 14, 15, and 21**, and India's **international obligations** under the **UN Convention on the Rights of the Child (UNCRC)** and **ICCPR**. The 18-year standard is a **"bright-line rule"** that creates **legal certainty and a zone of protection** for minors, who, the Centre argues, **lack the developmental capacity for informed sexual consent**.

While acknowledging the **existence of adolescent relationships**, the Centre contended that **judicial discretion on a case-by-case basis** is appropriate, but warned against statutory exceptions that may **open floodgates to trafficking, coercion, and manipulation** under the guise of consent. It cautioned that **any legislative relaxation** would **shift the trial focus from the accused's conduct to the minor victim's intent**, leading to **re-victimisation and stigmatization**.

The submissions also draw on empirical data, such as the **2007 MWCD study**, showing that **over 50% of sexual offences against children are committed by persons in positions of trust**, making the minor's purported "consent" both legally and morally problematic. It was submitted that allowing legal recognition of such "consent" would legitimize exploitation within these power-imbalanced relationships.

The Centre cited several parliamentary and expert reports that had previously **rejected proposals to reduce the age of consent**, including:

- **Justice Verma Committee (2013)** – recommended retention at 16, but Parliament raised it to 18.
- **240th and 243rd Law Commission Reports**
- **Parliamentary Standing Committee Reports (2011 & 2012)** – emphasized that **minor's willingness is immaterial** for consent under law.

Importantly, the Centre underscored the **"fresh start" principle** under the **Juvenile Justice Act, 2015**, advocating confidentiality and non-stigmatization for **child offenders**, which, it argued, should not be undermined by reducing protections for **child victims**.

Thus, the Centre firmly concluded that any **statutory dilution** of the age of consent would be **regressive**, **contrary to legislative intent**, and **damaging to India's efforts in combating child sexual abuse, trafficking, and early marriage**.

11. Prelims Q&A

1. Which Chapter makes provision for sexual offences against children?
   a. Chapter I
   b. Chapter III
   c. Chapter II
   d. None of above

Correct Answer:C

2. Which Section provides for aggravated penetrative sexual assault?
   a. Section 5
   b. Section 4
   c. Section 2
   d. None of above

Correct Answer: A

3. How much punishment is prescribed for penetrative sexual assault on a child above sixteen years of age?
   a. Imprisonment for a term which may extend to ten years
   b. Imprisonment for life

c. Imprisonment for a term which shall not be less than ten years but which extend to life and shall also be liable to fine
d. Imprisonment for twenty years

Correct Answer: C

4. How much punishment is prescribed for aggravated penetrative sexual assault?

a. Imprisonment for a term which may extend to twenty years
b. Imprisonment for life or death
c. Imprisonment for a term which shall not be less than twenty years but which may extend to life and shall also be liable to fine, or with death
d. Imprisonment for thirty years

Correct Answer: C

5. In which Section 'Sexual Harassment' upon a child is defined?

a. Section 10
b. Section 11
c. Section 12
d. Section 13

Correct Answer: B

6. Which Section provides that who-ever commits sexual assault, shall be punished with imprisonment of either description for a term which shall not be less than three years but which may extend to five years, and shall also be liable to fine, is—

a. Section 6
b. Section 8
c. Section 7
d. None of above

Correct Answer: B

7. According to provisions of the Section 10, punishment for aggravated sexual assault shall be—

a. Imprisonment for a term not less than five years but not more than seven years and also with fine.
b. Imprisonment for a term not less than three years but not more than five years and also with fine.
c. Imprisonment for a term not less than seven years but not more than ten years and also with fine.
d. None of above.

Correct Answer: A

8. In view of provisions of Section 12, whoever commits sexual harassment upon a child shall be punished with impriosnment of either description for a term which—

a. May extend to five years and also with fine.
b. May extend to three years and also with fine.
c. May extend to seven years and also with fine.
d. May extend to two years and also with fine.

Correct Answer: B

9. Which Section states that whoever commits aggravated penetrative sexual assault shall be punished with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life and also be liable to fine ?

a. Section 6
b. Section 5
c. Section 7
d. None of above

Correct Answer: A

10. 'A', who was previously convicted for the offence of rape, with sexual intent touches the vagina of 'B' aged 17 years. Under the Protection of Children from Sexual Offences Act, 2012 'A' has committed the offence of:

a. Sexual Assault
b. Aggravated Sexual Assault
c. Aggravated Penetrative Sexual Assault
d. Penetrative Sexual Assault

Correct Answer: B

12. MAINS Q&A

Question:

Explain the essentials of partnership and distinguish it from joint Hindu family business.

(HJS 1984, BJS 2006)

Answer:

Partnership, as defined by Section 4 of the Act, is characterised by several essential elements that define its structure and operation. Firstly, partnership formation necessitates an agreement between two or more individuals, whether oral or written, who intend to collaborate in business operations. This agreement signifies the mutual intention to engage in joint business endeavours, marking the commencement of the partnership. Furthermore, mutual agency is a fundamental aspect of partnership, wherein each partner acts as an agent for both the firm and the other partners.

This mutual agency ensures that decisions made by any partner within the scope of business operations are binding on all partners, emphasising shared responsibility and authority in managing the partnership.

Additionally, the sharing of profits and losses among partners is a critical element of partnership. Partners are obligated to share not only the profits generated by the business but also typically bear the losses incurred, fostering a sense of mutual investment in the business's success.

Moreover, a partnership must be established for the purpose of conducting a business venture, distinguishing it from mere co-ownership or association arrangements. This underscores the commercial motive behind partnership endeavours, ensuring that the primary objective is the pursuit of business activities.

Lastly, each partner in a partnership assumes personal liability for the debts and obligations incurred by the business, highlighting the significant commitment involved in partnership endeavours. This unlimited liability means that partners' personal assets are at risk in the event of the partnership's inability to meet its financial commitments, emphasising the substantial commitment involved in partnership ventures.

Distinguishing Partnership from Joint Hindu Family Business:

While both partnership and Joint Hindu Family (HUF) business serve as vehicles for conducting business activities, they differ significantly in several aspects. Firstly, partnership arises from an agreement between individuals, whereas HUF business originates from the status of being born in the same family, inheriting the family business.

Secondly, the admission of new members in a partnership requires unanimous consent from all existing partners, whereas male children automatically become members of the HUF business at birth.

Thirdly, females can join as full-fledged partners in a partnership, while they cannot become members of the HUF business. Fourthly, minors cannot be partners at the time of partnership constitution, while male minors automatically become members of the HUF business at birth.

Furthermore, the dissolution of a partnership automatically occurs upon the death of any partner, whereas the HUF business remains unaffected by the death of any member, continuing its operations. Additionally, in a partnership, each partner acts as an agent for others, binding the firm, while only the 'Karta' of the HUF business has authority to bind the firm by his acts.

Lastly, while partnership entails unlimited liability for all partners, the liability of the 'Karta' in the HUF business is unlimited, with others having limited liability. These distinctions highlight the unique characteristics and legal implications associated with partnership and HUF business, underscoring the importance of understanding these differences for individuals engaging in business ventures within these frameworks.

13. CLEAR CONCEPTS

Key Concept in Constitutional Law: Amendment of the Constitution under Article 368

One of the most fundamental aspects of India's constitutional framework is the **power of amendment under Article 368** of the Constitution. This provision allows Parliament to amend the Constitution while maintaining its identity and essence. For judiciary aspirants, understanding the **doctrine of basic structure**, **procedure for amendment**, and the **limits of parliamentary power** under Article 368 is essential.

Core Concept: Amendment and the Basic Structure Doctrine

Article 368 provides the procedure for amending the Constitution. It recognizes two types of amendments:

- **By special majority of Parliament** (most provisions)
- **By special majority and ratification by half of the States** (for federal provisions)

While Article 368 grants Parliament significant authority, this power is **not absolute**.

Landmark Case Laws and Their Significance

1. **Shankari Prasad v. Union of India (1951)**
   The Supreme Court upheld that Parliament had the power to amend Fundamental Rights under Article 368.
2. **Golaknath v. State of Punjab (1967)**
   The Court ruled that **Fundamental Rights cannot be amended** under Article 368, treating it as ordinary law under Article 13(2). This decision curtailed Parliament's power.
3. **Kesavananda Bharati v. State of Kerala (1973)**
   This landmark judgment **overruled Golaknath** and upheld Parliament's power to amend any part of the Constitution. However, it introduced the **Basic Structure Doctrine**, stating that Parliament

cannot alter or destroy the basic structure of the Constitution.
Basic Structure includes:

- Supremacy of the Constitution
- Republican and democratic form of government
- Secular character of the Constitution
- Separation of powers
- Federalism
- Rule of law
- Judicial review

4. **Indira Nehru Gandhi v. Raj Narain (1975)**
   The Supreme Court struck down Clause 4 of Article 329A (inserted by the 39th Amendment) as it violated the basic structure by excluding judicial review.
5. **Minerva Mills v. Union of India (1980)**
   The Court struck down parts of the 42nd Amendment for violating the basic structure. It emphasized a **balance between Fundamental Rights and Directive Principles**, reaffirming judicial review as part of the basic structure.
6. **I.R. Coelho v. State of Tamil Nadu (2007)**
   It was held that **laws inserted in the Ninth Schedule after April 24, 1973**, are also subject to judicial review and can be struck down if they violate the basic structure.

In conclusion, the doctrine of basic structure and the scope of Article 368 remain pivotal in constitutional interpretation. Judiciary aspirants must internalize the interplay between constitutional flexibility and foundational stability, as interpreted by the Supreme Court over time.