Weekly Judiciary Digest

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Current & Conceptual Weekly

21th May to 26th May, 2025

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1. Supreme Court Invokes Article 142 to Refrain from Sentencing under POCSO; Seeks Policy Reform on Adolescent Sexuality and Sex Education

Case Title: In Re: Right To Privacy Of Adolescents

Case No.: SMW(C) No. 3/2023

Citation: 2025 LiveLaw (SC) 617

Court: Supreme Court of India

Bench: Justice Abhay S. Oka and Justice Ujjal Bhuyan

In a significant development, the Supreme Court of India has sought the response of the Union Government on a set of progressive policy recommendations concerning **comprehensive sexuality education and real-time data tracking under the POCSO Act, 2012**. The directions were issued in the suo motu matter *In Re: Right to Privacy of Adolescents*, arising from controversial observations made by the Calcutta High Court in a POCSO conviction case, which were later overturned by the apex court.

The matter involved a peculiar factual scenario—a girl, who was a minor at the time of the incident, was married to the convict and had a child with him. Upon attaining majority, she requested the Court not to sentence the man, as doing so would disrupt her family life. While **restoring the conviction under Section 6 POCSO and Sections 376(3) and 376(2)(n) IPC**, the Court refrained from sentencing the accused, invoking **Article 142 of the Constitution** to do complete justice.

The amici curiae, **Senior Advocates Madhavi Divan and Liz Mathew**, made compelling submissions on the need for nuanced interpretation of the POCSO Act in adolescent consensual relationships. They referred to judgments such as *Ajay Kumar v. State (NCT of Delhi)* and *Vijayalakshmi v. State*, where courts have held that **the POCSO Act was not intended to criminalize consensual romantic relations between adolescents**. Additionally, the **Calcutta High Court's decision in *Ranjit Rajbanshi v. State of West Bengal*** held that penetration defined under POCSO is a unilateral act, thus not applicable in consensual settings.

The amici cautioned that **rigid application of the POCSO Act** could adversely affect the welfare of the prosecutrix and her dependents. They advocated for policy-level reforms, including the introduction of **comprehensive sexuality education** across all levels, enhanced **teacher training**, and **inclusive curriculum development**. Referring to UNESCO's Global Status Report (2021), they noted that **India's sexuality education is currently limited to secondary-level HIV-related education**, which fails to address adolescent health needs effectively.

Another crucial suggestion was the **establishment of a state-level structured data collection and real-time monitoring system** for cases under the POCSO Act. The system would track indicators such as **POCSO proceedings, counselling, child marriages, and sex education**, with a **publicly accessible dashboard** to ensure institutional accountability.

Recognizing the broader implications of the issue, the Court **directed the Ministry of Women and Child Development to form a high-level committee**, including state representatives and domain experts, to examine the recommendations. The committee is expected to **submit a comprehensive report by July 25, 2025**.

Earlier, the Court had also directed the **West Bengal Government to set up a three-member expert panel** to assist the victim with psychological support, legal aid, and options for her future. Directions were also issued to ensure compliance with **Section 19(6) of POCSO and Sections 30–43 of the Juvenile Justice Act, 2015** across all States and Union Territories.

2. Supreme Court Clarifies Pleading Requirements under Section 141 NI Act for Director Liability in Cheque Dishonour Cases

Case Title: HDFC Bank Ltd. v. State of Maharashtra

Citation: 2025 LiveLaw (SC) 624

Court: Supreme Court of India

Bench: Justice Manoj Misra and Justice K.V. Viswanathan

In a significant judgment on corporate criminal liability under the Negotiable Instruments Act, 1881, the Supreme Court has clarified that **a complaint under Section 138 read with Section 141 of the NI Act need not reproduce the exact statutory language to make directors vicariously liable**. What is essential is material compliance through sufficient averments about the director's responsibility for the conduct of the company's business.

The case arose from a complaint filed by **HDFC Bank Ltd. against M/s R Square Shri Sai Baba Abhikaran Pvt. Ltd. and its directors**, including Mrs. Ranjana Sharma, due to the dishonour of a cheque. The Magistrate issued process against all accused. However, the Bombay High Court quashed proceedings against Sharma, citing the absence of specific details about her role in the company's affairs.

Setting aside the High Court's ruling, the Supreme Court emphasized that **directors cannot escape prosecution solely because a complaint lacks minute administrative details** about their role. Citing a long line of precedents, the Court reiterated that **directors can be proceeded against if the complaint states that they were "in charge of and responsible for" the conduct of business**, even if not in the exact words of the statute.

The judgment authored by **Justice K.V. Viswanathan** highlighted that **expecting the complainant to furnish internal details of a director's role, which are within the special knowledge of the company or the director, is contrary to the purpose of Section 141**. The Court observed that Sharma was described as "responsible for the day-to-day affairs, management and working" of the company—an averment sufficient to invoke the Magistrate's jurisdiction at the complaint stage.

Relying on earlier decisions like **S.M.S. Pharmaceuticals Ltd. v. Neeta Bhalla (2005) 8 SCC 89**, **K.K. Ahuja v. V.K. Vora (2009) 10 SCC 48**, **National Small Industries Corporation Ltd. v. Harmeet Singh Paintal (2010) 3 SCC 330**, and **S.P. Mani & Mohan Dairy v. Snehalatha Elangovan (2022) 6 SCC 220**, the Court harmonized the legal position: **While specific averments are necessary to establish vicarious liability, excessive detailing of administrative responsibilities is not required at the pre-summoning stage**.

The Court explained that **Section 141 imposes liability on those who are in control of the company at the time of the offence**, but **mere designation as a director does not result in automatic liability**. However, the presence of a general allegation that the director was in charge

and responsible is adequate for initiating process. The question of whether the director actually exercised such control can be addressed during the trial.

Finally, the Court restored the Magistrate's order summoning Sharma and allowed the appeal filed by HDFC Bank, thereby **quashing the Bombay High Court's order of discharge**.

3. Supreme Court Applies Res Judicata to Impleadment Proceedings under Order I Rule 10 CPC

Case Title: Sulthan Said Ibrahim v. Prakasan & Ors.

Citation: 2025 LiveLaw (SC) 622

Court: Supreme Court of India

Bench: Justice J.B. Pardiwala and Justice R. Mahadevan

In a notable ruling interpreting the procedural framework of civil litigation, the Supreme Court has held that the **principle of res judicata, including constructive res judicata, applies to applications under Order I Rule 10 of the Civil Procedure Code (CPC)**. This means that if a party fails to raise objections regarding impleadment at the appropriate stage of proceedings, they cannot later reopen the issue by filing a fresh application at a subsequent stage.

The case arose from a civil suit in which the appellant was **impleaded as the legal heir of the original defendant**, following an inquiry under **Order XXII CPC**. The impleadment order was not contested by the appellant at that stage and, thus, attained finality. However, after a significant lapse of time, the appellant filed an application under **Order I Rule 10 CPC**, seeking deletion of his name from the array of parties. He argued that, under **Muslim personal law**, he could not be considered a legal heir of his grandmother, as his father had predeceased her.

Both the **Trial Court and the High Court dismissed the application**, prompting the appellant to approach the Supreme Court. Upholding the lower courts' decisions, the Supreme Court emphasized that once a matter—such as the status of a legal heir—has been adjudicated or accepted without objection, **it cannot be re-agitated at a later stage on the same facts**, even under the guise of a new procedural provision.

The judgment, authored by **Justice Pardiwala**, clearly stated that the **expression "at any stage of the proceedings" under Order I Rule 10 CPC does not entitle parties to revisit settled issues repeatedly**. Doing so would defeat the objectives of finality, certainty, and judicial economy, and would **unfairly prolong litigation**, undermining the principles of **fair play and justice**.

The Court observed:
"The issue regarding the impleadment of the appellant had attained finality. The subsequent application to delete his name as a party under Order I Rule 10 CPC was, therefore, barred by res judicata, and rightly dismissed."

Furthermore, the Court pointed out that had the appellant raised his objections at the time of impleadment under Order XXII Rule 5, **the court would have examined the merits** of the claim based on succession laws. However, having failed to act at that time, **the appellant could not now invoke Order I Rule 10 to undo the earlier decision**.

4. Supreme Court Upholds Validity of Employment Bond: Clarifies Law on Standard Form Employment Contracts and Section 27 of Contract Act

Case Title: Vijaya Bank & Anr. v. Prashant B Narnaware

Citation: 2025 LiveLaw (SC) 565

Court: Supreme Court of India

Bench: Justices P.S. Narasimha and Joymalya Bagchi

In a significant ruling concerning **employment contracts, restrictive covenants, and the interpretation of Section 27 of the Indian Contract Act**, the Supreme Court upheld the validity of an employment bond requiring an employee to pay ₹2 lakhs as liquidated damages for premature resignation. The Court clarified the legal standards applicable to **standard form employment contracts**, particularly those presented on a non-negotiable, "take-it-or-leave-it" basis.

The dispute arose when **Vijaya Bank** sought to enforce a clause in its appointment terms which mandated a **₹2 lakh penalty for leaving service before completing the mandatory three-year period**. After resigning and joining another bank, the employee's dues were adjusted against this penalty, prompting him to challenge the bond before the High Court. The High Court held the clause violative of **Section 27 of the Contract Act** (restraint of trade) and declared it a **restrictive trade practice**. The Bank appealed to the Supreme Court.

Allowing the appeal, the Supreme Court held that **exclusivity clauses or employment bonds that merely impose financial consequences for early resignation do not amount to restraint of trade under Section 27**. The Court observed that the clause did not restrict the respondent's future employment but merely required **payment of pre-agreed compensation for not fulfilling contractual obligations**. Such stipulations, the Court held, **further the employment relationship** rather than inhibit professional mobility.

The **judgment authored by Justice Joymalya Bagchi** emphasized the distinction between **restrictive employment clauses and clauses that secure institutional interests**, such as retaining trained personnel in public sector entities. It noted that **public sector undertakings (PSUs)** must follow open and competitive recruitment under **Articles 14 and 16 of the Constitution**, and early exits burden such institutions with **time-consuming and expensive re-recruitment processes**.

The Court further laid down key legal principles governing **standard form employment contracts**:

1. **Standard form employment contracts are prima facie indicative of unequal bargaining power**.

2. When an employee alleges **coercion, undue influence, or that a term is opposed to public policy**, courts must evaluate such claims in light of the inherent power imbalance.
3. The **burden of proof lies on the employer (covenantee)** to show that the restrictive covenant is reasonable and not contrary to public policy.

However, the Court clarified that **mere existence of unequal bargaining power does not render the contract invalid**. The term must also be shown to be **oppressive, unconscionable, or excessively punitive**. In this case, the Court found no such infirmity. Given the employee's senior designation and lucrative salary, **the ₹2 lakh penalty was not disproportionate** or unconscionable.

5. Supreme Court Acquits Accused in Murder Case Citing Reasonable Doubt on Mental Insanity under Section 84 IPC

Case Title: Dashrath Patra v. State of Chhattisgarh

Case No.: Criminal Appeal No. 821/2025

Citation: 2025 LiveLaw (SC) 618

Court: Supreme Court of India

Bench: Justice Abhay S. Oka and Justice Ujjal Bhuyan

In a significant judgment reaffirming the constitutional and legal protections available to mentally ill individuals facing criminal charges, the Supreme Court **set aside the conviction and life sentence of a man under Section 302 IPC** after finding that there existed **more than a reasonable doubt regarding his mental condition** at the time of the offence.

The appellant, **Dashrath Patra**, was convicted by the Trial Court for the murder of one Asam Gota in September 2018 and sentenced to life imprisonment. The conviction was later affirmed by the High Court. The appellant's primary defence was insanity at the time of the offence, which he argued had not been properly considered.

The prosecution relied on a **medical examination conducted in December 2023**, which declared the appellant mentally sound. However, the Supreme Court rejected the probative value of this examination, observing that it occurred **more than five years after the incident** and was irrelevant to assessing the appellant's condition at the time of the crime.

Referring to key precedents such as **Dahyabhai Chhaganbhai Thakkar v. State of Gujarat, Rupesh Manger (Thapa) v. State of Sikkim, Surendra Mishra v. State of Jharkhand**, and **Bapu v. State of Rajasthan**, the Court reiterated that:

- The **prosecution must prove the offence beyond reasonable doubt**, but the **accused can rebut the presumption of sanity** by creating **reasonable doubt**, not by conclusively proving insanity.
- The burden on the accused under **Section 84 IPC** is akin to the **civil standard of proof** and is discharged if a doubt arises regarding the presence of mens rea.

- The Court must assess the **mental condition of the accused before, during, and after the incident**, and failure to undergo a timely medical examination should not defeat a plea of insanity if corroborative evidence exists.

In this case, **prosecution witnesses themselves deposed about the appellant's history of mental illness**, frequent violent behavior, and instability. Notably, **PW1 stated in cross-examination that the appellant suffered from "madness attacks"**, and PW2, an eyewitness, testified that the appellant's condition was well-known in the village. The **prosecution did not re-examine these witnesses**, nor did it request a timely psychiatric evaluation during trial proceedings.

The bench strongly criticized this lapse, noting that **failure to seek medical evaluation after such testimony amounted to negligence** on part of the prosecution. The Court emphasized that **the right to defend oneself is a fundamental right under Article 21**, and a person incapable of understanding legal proceedings or the nature of their actions **cannot be held criminally liable**.

Concluding that the **evidence raised a strong and reasonable doubt about the appellant's legal sanity at the time of the incident**, the Court held that he was entitled to the **benefit of doubt**. Accordingly, it **set aside the conviction and sentence** imposed by the lower courts.

6. Supreme Court Recognizes Maternity Leave as Integral to Reproductive Rights; Overrules Madras HC's Denial Based on Two-Child Norm

Case Title: K. Umadevi v. Government of Tamil Nadu

Case No.: Civil Appeal No. 2526/2025 (Diary No. 32351 / 2022)

Citation: 2025 LiveLaw (SC) 614

Court: Supreme Court of India

Bench: Justice Abhay S. Oka and Justice Ujjal Bhuyan

In a landmark ruling affirming the constitutional value of reproductive rights, the Supreme Court has set aside the Madras High Court Division Bench's order which denied **maternity leave to a government school teacher for her third child**, citing the State's two-child policy. The Court held that maternity benefits, including **maternity leave, are an essential part of reproductive rights**, protected under **Article 21 of the Constitution**.

The appellant, **K. Umadevi**, was a government teacher who had **two children from her previous marriage**, with both children residing with her former husband. After remarrying in 2018, she sought **maternity leave for the birth of her first child from her second marriage**, who was born after she had joined government service. Her request was rejected by the State on the ground that it violated the **two-child norm in government service rules**.

While a **Single Judge of the High Court** ruled in her favour, recognizing her entitlement under the **Maternity Benefit Act, 1961**, a **Division Bench reversed that ruling**, holding that the leave

policy based on the two-child norm was valid and that maternity leave was a **statutory or service-based right, not a fundamental right**. The State also argued that the **Maternity Benefit Act did not apply to government employees governed by separate service rules**.

Reversing the Division Bench's judgment, the **Supreme Court unequivocally held that reproductive rights, including maternity leave, are protected by fundamental rights**, particularly the **right to health, privacy, dignity, equality, and non-discrimination**. The Court emphasized that **maternity leave is not merely a service condition benefit but flows directly from reproductive autonomy**.

Justice Bhuyan, writing the judgment, observed that the appellant's two earlier children were born before she entered service and were not in her custody. Hence, **this was her first child in terms of both service and caregiving responsibilities**. The Court further held that the **objectives of population control and maternity protection are not mutually exclusive**, and must be **harmoniously construed** to achieve broader **social justice goals**.

Importantly, the Court noted that Section 5 of the Maternity Benefit Act, 1961, does not limit the number of deliveries for which maternity benefits may be claimed. Rather, it only distinguishes between the duration of leave based on whether a woman has less than or more than two surviving children, without barring benefits entirely for the third child.

The Court upheld the interpretation of the Single Judge that the term "surviving children" must be read in conjunction with custody and caregiving responsibilities, and that the Act has overriding effect under Section 27, rendering any inconsistent service rule void under Article 254 of the Constitution.

7. Supreme Court's CRP Report Unveils Breakthrough in Pendency Reduction through Differentiated Case Management

Report Title: Unclogging the Docket: Tackling Short, Infructuous and Old Cases

Released By: Centre for Research and Planning (CRP), Supreme Court of India

Period Covered: November 2024 – May 2025

Supervised By: Former Chief Justice of India, Sanjiv Khanna

In a landmark institutional initiative aimed at tackling case pendency, the Supreme Court of India's **Centre for Research and Planning (CRP)** has released its detailed report titled "*Unclogging the Docket: Tackling Short, Infructuous and Old Cases*". The report presents a first-of-its-kind empirical **experiment in Differentiated Case Management (DCM)** within the Indian judiciary, aimed at streamlining the adjudication of cases that are ripe for swift disposal.

Over the span of six months, **around 10,000 pending cases** were thoroughly examined by the CRP team, and **cases identified as short, infructuous, or pending for a long duration were filtered and listed for priority hearing**. This innovative triage model ensured that such cases were scheduled across all courtrooms, especially in the **first ten matters on Miscellaneous (After Notice) days—Tuesdays and Wednesdays—as well as on regular hearing days**. These

were supported by structured briefs and legal assistance to enable efficient argument and resolution.

The results were remarkable. Out of the assessed docket, **around 2,000 cases (1525 standalone matters with 490 connected cases)** received final judicial outcomes, contributing to an institutional **disposal rate of approximately 104%** for the first half of the year. Notably, **more than 70% of identified cases were disposed of within just one or two hearings**, affirming the effectiveness of this targeted listing strategy.

In **miscellaneous matters without a coram**, 770 cases (with 173 connected) were resolved swiftly. In **miscellaneous matters with a coram**, 255 cases (with 254 connected) saw similar quick resolutions. Regular days also saw a boost in efficiency: **376 criminal cases (with 63 connected)** and **124 civil cases (with 3 connected)** were resolved in just **17 regular hearing days**, pushing the **criminal case disposal rate above 109%**.

The project also extended support for specific categories such as:

- **Group matters** where main cases had been adjudicated;
- **MACT cases**, leading to streamlining and resolution of 900 matters;
- **Tax cases involving disputes below ₹5 crore**, facilitating disposal of over 600 such cases.

This was a **fully in-house institutional effort**, involving **close coordination with the listing, paper book, and technical departments**. The initiative was led by **Kriti Sharma**, an academician with expertise in empirical legal studies, alongside **Padma Ladol** (judicial officer), **consultants Shubham Kumar and Vrishti Shami**, and a dedicated team of 25 clerks.

The report strongly recommends **institutionalising this differentiated approach to case listing**. It suggests that **a planned, merit-based listing strategy for faster-disposable matters can significantly curb pendency**, and its **replicable framework** may be adopted by **High Courts and lower courts facing chronic backlogs**.

8. Supreme Court Declines to Revisit 2010 Punjab & Haryana Civil Judge Recruitment After 15-Year Delay

Case Title: Mukesh Kumar & Anr. v. State of Haryana through Chief Secretary & Ors.

Case No.: Civil Appeal No. 5482 of 2024

Court: Supreme Court of India

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

In a judgment reinforcing the principle of legal finality and judicial efficiency, the Supreme Court has refused to interfere in a challenge to the 2010 **recruitment of Civil Judges (Junior Division) in Punjab and Haryana**, citing an inordinate delay of 15 years. The Court held that **"the clock cannot be turned back"** to reappoint judicial officers or grant consequential relief at this belated stage.

The appellants had contested the recruitment process under the **Punjab Civil Service (Judicial Branch) Haryana Amendment Rules, 2010**, seeking judicial intervention on alleged irregularities in appointments made in that year. However, the Supreme Court found **no merit in reopening the matter after such a substantial passage of time**.

The bench emphasized two primary reasons for declining interference. First, it held that **the issue was covered by the Court's earlier ruling in *Dr. Kavita Kamboj v. High Court of Punjab & Haryana & Ors.***. In *Dr. Kavita Kamboj*, the Court upheld the criteria prescribed by the Punjab and Haryana High Court mandating **a minimum of 50% marks in interviews** for judicial officers seeking promotion under the **65% merit-cum-seniority quota** as per **Rule 8 of the Haryana Superior Judicial Service Rules, 2007**.

Drawing a parallel, the Court noted that the **principle of judicial discretion and criteria-based selection applied equally in the present case**, and thus the ratio in *Kavita Kamboj* was **squarely applicable**.

Second, the Court underscored the impracticality of revisiting a recruitment exercise conducted 15 years ago. It observed that **judicial appointments are time-sensitive**, and attempting to appoint officers retrospectively would undermine institutional continuity and create **legal and administrative complications**.

The bench stated:
"Now in the year 2025, the clock cannot be turned back by appointing judicial officers after 15 years or grant consequential reliefs at this point of time."

By refusing to unsettle concluded appointments, the Court also emphasized the need to preserve judicial stability and avoid opening floodgates of litigation in service matters.

This ruling is significant for judiciary aspirants as it reiterates key legal principles:

- **Doctrine of delay and laches**: Relief will not be granted when the litigant has approached the Court after an unreasonably long delay, especially in public employment matters.
- **Applicability of precedents**: The Court's reliance on the Kavita Kamboj judgment demonstrates the importance of following judicial precedent in service jurisprudence.
- **Judicial restraint in administrative matters**: The judiciary refrains from revisiting recruitment processes after long delays unless there is a gross miscarriage of justice.

With the Court's refusal to intervene, the case stands disposed of, offering a clear message that **judicial recruitment exercises must be challenged promptly and within a reasonable timeframe**, reinforcing the broader need for **finality and certainty in service law adjudication**.

9. Supreme Court Exercises Article 142 to Withhold Sentence in POCSO Conviction Citing Victim's Trauma from Legal Consequences, Not Act Itself

Case Title: In Re: Right To Privacy Of Adolescents

Case No.: SMW(C) No. 3/2023

Citation: 2025 LiveLaw (SC) 617

Court: Supreme Court of India

Bench: Justice Abhay S. Oka and Justice Ujjal Bhuyan

In a sensitive and precedent-setting decision, the Supreme Court of India **invoked Article 142 of the Constitution to refrain from imposing a sentence on a man convicted under the Protection of Children from Sexual Offences Act, 2012 (POCSO)**, after acknowledging that the **victim did not perceive the incident as a crime** and had instead suffered due to the **legal and social fallout** of the prosecution.

The Court restored the conviction under **Section 6 of the POCSO Act** and **Sections 376(3) and 376(2)(n) of the IPC** but **exercised judicial discretion not to impose any sentence**, citing the findings of a committee that assessed the case in detail. The case, taken up suo motu, originated from controversial remarks made by the Calcutta High Court in 2024, which were later expunged and deemed violative of **Article 21**.

The Court held that the **victim's trauma stemmed not from the act itself but from the legal process**. "The society judged her, the legal system failed her, and her own family abandoned her," the bench noted, emphasizing the systemic gaps that prevented the victim from making an informed choice earlier in her life.

Post-incident, the convict and the victim—who is now an adult—married and currently live together with their child. The Court observed that the victim is emotionally attached to the convict and highly protective of her family. "That is the reason we are giving for exercising power under **Article 142 not to impose sentence**," Justice Oka remarked.

This decision follows months of deliberation, including the Court's directive to the **Government of West Bengal** to constitute a **three-member expert committee** comprising a **clinical psychologist, social scientist, and child welfare officer**, with institutional support from **NIMHANS or TISS**. The committee's confidential report confirmed that **the victim did not experience trauma from the act but from the systemic response**—police, courts, and the struggle to shield the accused.

The Court had earlier directed compliance with **Section 19(6) of the POCSO Act** and **Sections 30–43 of the Juvenile Justice (Care and Protection of Children) Act, 2015**, across all States and UTs. The States were also advised to consider framing Rules under **Section 46 of the JJ Act**.

Further, the Court noted the State's commitment to providing educational and financial assistance to the victim and her child. It observed the need to explore **vocational training and part-time employment** once the victim completes her 10th Board exams.

10. Supreme Court Acquits Man in Murder Case; Reiterates 'Last Seen Together' is Weak Evidence Without Corroboration

Case Title: Padman Bibhar v. State of Odisha

Citation: 2025 LiveLaw (SC) 613

Court: Supreme Court of India

Bench: Justice Sanjay Karol and Justice Prashant Kumar Mishra

In a judgment reinforcing key principles of criminal jurisprudence, the Supreme Court has **acquitted a man convicted under Section 302 IPC**, emphasizing that **'last seen together' theory is a weak form of evidence** and cannot alone form the basis for conviction unless accompanied by compelling corroborative evidence.

The accused, **Padman Bibhar**, was convicted for the murder of his cousin, whose body was found floating in a river near a cashew field. The prosecution's case was based entirely on **circumstantial evidence**, particularly an eyewitness account that the appellant was **last seen with the deceased** prior to the incident. The trial court convicted him on this basis, a finding later affirmed by the High Court.

However, the Supreme Court found **significant gaps in the chain of circumstances**, ruling that the **time of death was uncertain**, and the **time gap between the last sighting and the recovery of the body remained unclear**. Relying on the precedent in *Kanhaiya Lal v. State of Rajasthan*, (2014) 4 SCC 715, the bench reiterated that **'last seen together' is a fragile piece of evidence** and cannot be the sole ground for conviction without other corroborative material pointing unerringly to the guilt of the accused.

The Court noted that the **prosecution failed to establish a conclusive motive**. The suggested motive—that the appellant suspected an illicit relationship between his wife and the deceased—was deemed unconvincing. The Court observed that **if the appellant had such suspicions, he would have acted against his wife rather than the cousin**, with whom there was **no direct animosity**.

Additionally, the **blood-stained stone allegedly used in the murder was not recovered at the instance of the accused**, nor was there any forensic link established between the stone and the deceased. The absence of a **memorandum statement under Section 27 of the Evidence Act** further weakened the prosecution's case.

The bench reiterated the **settled law that in cases based on circumstantial evidence, the prosecution must establish each link in the chain of circumstances beyond reasonable doubt**. Suspicion, even if strong, **cannot replace proof**, and the standard of criminal conviction must remain rooted in **certainty, not conjecture**.

Justice Karol, speaking for the bench, concluded:

"The nature of circumstantial evidence available against the appellant, though raising doubt, is not so conclusive that he can be convicted solely on the basis of 'last seen together'."

Accordingly, the **appeal was allowed**, and the conviction and sentence were **set aside**, reaffirming the principle that **every accused is entitled to the benefit of doubt unless guilt is proven with unbroken, compelling evidence**.

11. PRELIMS Q&A

1. The principle of res judicata does not apply incase of writ of :—
   a. Habeas corpus
   b. Mandamus
   c. Quo-warranto
   d. Prohibition

Correct Answer: A

Explanation: The principle of res judicata, which prevents the same case from being tried again once it has been judged, does not apply to habeas corpus writs. This is because habeas corpus petitions can be filed multiple times to challenge unlawful detention, ensuring continuous protection of personal liberty.

2. Which of the following writs literally means you may have the body' ?
   a. Habeas Corpus
   b. Mandamus
   c. Quo Warranto
   d. Ceritoran

Correct Answer: A

Explanation: The writ of habeas corpus literally means "you may have the body." It is a judicial mandate requiring that a prisoner be brought to court to determine whether the government has the right to continue detaining them. This writ is crucial for protecting individuals from illegal detention.

3. A person unlawfully detained may question his detention
   a. By writ of Habeas corpus
   b. By writ of Certiorari
   c. By wnt of Mandamus
   d. By writ of Prohibition

Correct Answer: A

Explanation: A person who is unlawfully detained can challenge the detention by filing a writ of habeas corpus. This writ compels the detaining authority to present the detainee before the court and justify the legality of the detention. If the court finds the detention illegal, it orders the person's release.

4. The writ of Habeas Corpus is issued :—
   a. By a superior court to the lower court directing it to transfer the record of proceedings ina case for its review
   b. in the form of an order calling upon a person who has detained another person to bring that person before court and show authority for such detention
   c. by a superior court to a subordinate court to do something in the nature of its allotted duty
   d. in the form of an order to stop proceedings in a certain case

Correct Answer: B

Explanation: The writ of habeas corpus is issued to command a person detaining another to bring the detainee before the court and justify the detention. This writ ensures judicial review of the legality of the detention and protects individual liberty from arbitrary state action.

5. A writ of mandamus can be issued :—
   a. only against subordinate courts

b. against any person or authority
c. only against tribunals
d. only against the executive bodies.

Correct Answer: B

Explanation: The writ of mandamus can be issued against any person or authority, including public officials and bodies, directing them to perform a duty they are legally obligated to perform. It is a command to act in accordance with the law, ensuring that public duties are carried out properly.

6. The case in which the Supreme Court has issued a writ of continuing mandamus is :—

a. State of Punjab v. Sukhpal Singh
b. Subhash v. State of Bihar
c. Vineet Narain v, U.O.I.
d. Gracy v Kerala

Correct Answer: C

Explanation: In Vineet Narain v. Union of India, the Supreme Court issued a writ of continuing mandamus to ensure ongoing judicial oversight in the investigation of the Jain Hawala case. This writ allowed the court to continuously monitor and guide the actions of the authorities to ensure compliance with its directions.

7. The court may give the command by which writ?

a. Certiorari
b. Habeas corpus
c. Mandamus
d. Prohibition

Correct Answer: C

Explanation: The writ of mandamus is a command issued by a court to a public authority to perform a duty that it is legally obligated to perform. This writ ensures that public officials and bodies fulfil their duties as required by law, maintaining the rule of law and proper administration.

8. A command asking a public authority to perform its public duty is called the writ of :—

a. Habeas corpus
b. Quo warranto
c. Mandamus
d. Prohibition

Correct Answer: C

Explanation: The writ of mandamus is a judicial command directing a public authority to perform its public duty. It is issued when a public official or body fails to perform a duty imposed upon them by law, compelling them to act and ensuring adherence to legal obligations.

9. Which of the following is considered as an important provision in enforcing the performance of public or statutory duty?

a. Certiorari
b. Mandamus
c. Quo Warranto
d. Habeas Corpus

Correct Answer: B

Explanation: The writ of mandamus is considered a crucial provision for enforcing the performance of public or statutory duties. It is issued by courts to direct public officials or bodies to perform duties mandated by law, ensuring accountability and compliance with legal responsibilities.

10. Issuance of writ of mandamus is relates to .....

a. Non performance of private duty
b. Specific performance of contract
c. Non-performance of public duty
d. None of the above

Correct Answer: C

Explanation: The writ of mandamus is issued to address the non-performance of a public duty. It commands public authorities or officials to carry out their legal duties, ensuring that they act in accordance with the law and fulfil their responsibilities.

12. MAINS Q&A

Question

What are the cases in which a Court may appoint an Arbitrator or an Umpire.

Marks: 10

Answer

A court may appoint an arbitrator or an umpire in certain circumstances, as outlined in arbitration laws such as the United Nations Commission on International Trade Law (UNCITRAL) Model Law on International Commercial Arbitration, the Federal Arbitration Act in the United States, or similar legislation in other countries. The specific conditions under which a court can intervene to appoint an arbitrator or an umpire are generally as follows:

- **Failure to Appoint Arbitrator**: If the parties' arbitration agreement specifies a method for appointing arbitrators but one or more parties fail to follow this method, the court can intervene to make the appointment.
- **Inability to Reach Agreement**: In arbitration agreements that require the parties to agree on an arbitrator, if the parties are unable to reach an agreement, the court may appoint an arbitrator.
- **Failure of Appointing Authority**: If the arbitration agreement delegates the appointment of arbitrators to a third party or an institution, and that party or institution fails to make the appointment within the specified timeframe, the court may be called upon to appoint an arbitrator.
- **Challenge to an Arbitrator**: If an arbitrator is successfully challenged (for reasons such as bias, lack of independence, or failure to meet agreed qualifications), and the arbitrator does not voluntarily withdraw or the other party does not agree to the withdrawal, a court may need to decide on the challenge and potentially appoint a replacement arbitrator.
- **Appointment of an Umpire or Presiding Arbitrator**: In some arbitration proceedings, particularly those involving multiple arbitrators, an umpire or presiding arbitrator may need to be appointed to resolve deadlocks or provide leadership in the arbitral tribunal. If the parties or the arbitrators themselves cannot agree on this appointment, the court may be asked to appoint the umpire or presiding arbitrator.
- **Non-Compliance with Procedural Rules**: If the arbitration procedure specified by the parties (or default procedure, if none is specified) requires certain actions to be taken within a particular timeframe and these are not adhered to, the court may intervene to ensure the continuation of the arbitral process.
- **Arbitrator Incapacity or Withdrawal**: If an arbitrator becomes unable or unwilling to perform their duties, and no provision for replacement is made in the arbitration agreement or the agreed procedure, the court may appoint a replacement arbitrator.

It's important to note that the court's role in appointing arbitrators or an umpire is generally seen as a measure of last resort, used only when the parties themselves cannot fulfil the requirements of their arbitration agreement or when there is a significant impediment to the continuation of the

arbitral process. This is in line with the principle of minimal court intervention in arbitration, which is a cornerstone of modern arbitration law.

13. CLEAR CONCEPTS

Key Concept in Limited Liability Partnership Law: Decriminalization of Offences under the LLP Amendment Act, 2021

One of the **most critical concepts** for judiciary aspirants to understand in the domain of **Limited Liability Partnership (LLP) law** is the **decriminalization of offences** under the **Limited Liability Partnership (Amendment) Act, 2021**. This amendment marks a **fundamental shift in the regulatory philosophy** governing LLPs in India—from a punitive model to a **compliance and facilitation-oriented regime**.

Concept Overview:

Prior to the 2021 amendment, minor procedural and technical non-compliances under the **LLP Act, 2008** were treated as criminal offences, attracting prosecution and imprisonment. This created undue burden and fear of criminal consequences among small businesses and startups. The **LLP Amendment Act, 2021**, based on recommendations from the **Company Law Committee (2021)**, introduced a **decriminalization framework**, which converted many offences into civil defaults with **monetary penalties** instead of criminal prosecution.

Key Provisions:

- **Section 10, 13, 17, 21, 25, 34, 35, 60, 62, 74**: These sections now attract only monetary penalties for defaults like non-maintenance of records, non-filing of returns, or failure to notify changes, rather than criminal liability.
- **Section 39 (substituted)**: Now empowers the **Regional Director** to compound offences punishable with fines.
- **Section 76A**: Introduces reduced penalties for **Small LLPs and Start-up LLPs**, capped at ₹1,00,000 for the entity and ₹50,000 for each partner.
- **Establishment of Special Courts**: Under **Sections 67A–67C**, Special Courts are to be constituted to deal with serious offences, ensuring faster disposal and reducing burden on traditional courts.

Importance and Judicial Relevance:

This reform aligns with the **constitutional mandate under Article 19(1)(g)** to promote ease of business and entrepreneurship by removing disproportionate restrictions. It also resonates with **judicial pronouncements** which emphasize proportionality in regulatory enforcement.

Though there is no landmark case directly interpreting the 2021 Amendment yet (as it is relatively recent), relevant principles have been echoed in corporate jurisprudence. In *Hindustan Construction Co. Ltd. v. Union of India* (2020) 17 SCC 324, the Supreme Court emphasized the need to unburden economic offenders from criminal prosecution when civil mechanisms suffice. Similarly, in *K.S. Puttaswamy v. Union of India* (2017) 10 SCC 1, the Court underlined the right to conduct trade and business as part of the right to dignity and autonomy.

Takeaway for Judiciary Aspirants:

The **2021 amendment reflects a progressive shift in India's business law environment**. For judiciary aspirants, understanding this transformation is crucial for interpreting:

- The **principles of proportionality and administrative justice**.
- The **distinction between malfeasance and non-feasance**.
- The **balancing act between regulatory oversight and entrepreneurial freedom**.

This concept also has interdisciplinary implications—touching on constitutional law, administrative law, and economic reform—making it a **ripe topic for both Mains-style analytical questions and interview discussions**.

