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MONTHLY NEWSLETTER OF THE CIVIL AND CRIMINAL JUSTICE CELL, NLIU

HIGHLIGHTS

THE SUPREME COURT STAYS THE REGISTRATION OF PETITIONS UNDER THE PLACES OF WORSHIP ACT, 1991

PG. 04

ADVOCATES CAN'T BE HELD LIABLE UNDER THE CONSUMER PROTECTION ACT FOR THE DEFICIENCY OF SERVICES

PG. 05

SUPREME COURT CLARIFIES "HOUSE TRESPASS" DOES NOT APPLY TO RESTAURANTS

PG. 06

SUPREME COURT CONDEMNS ARBITRARY DEMOLITION BY EXECUTIVE AS ABUSE OF POWER: BULLDOZER JUSTICE

PG. 07

MERE BREAKUP OF CONSENSUAL RELATIONSHIP CANNOT LEAD TO CRIMINAL PROCEEDINGS

PG. 08



UNPRIVILEGED WILL CAN BE EXECUTED IF ATTESTING WITNESS SEES TESTATOR SIGN OR AFFIX MARK, UNDER S. 63(C) INDIAN SUCCESSION ACT: SUPREME COURT

PG. 09

MANDATORY TO HEAR THE INFORMANT OR VICTIM BEFORE GRANTING BAIL IN CASES INVOLVING RAPE OR OFFENSES UNDER THE SC/ST ACT.

PG. 10

UAPA CONTEMPLATION OF TERRORIST ACT FOR YEARS EVEN WITHOUT GIVING EFFECT TO IT CONSTITUTES A TERRORIST ACT: DELHI HIGH COURT

PG. 13



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MONTHLY NEWSLETTER OF THE CIVIL AND CRIMINAL JUSTICE CELL, NLIU

THE SUPREME COURT STAYS THE REGISTRATION OF PETITIONS UNDER THE PLACES OF WORSHIP ACT, 1991

In a significant judgment, the Supreme Court of India has reaffirmed the prohibition on registering new suits that challenge the religious character of places of worship under the Places of Worship (Special Provisions) Act, 1991. This ruling came as the Court addressed multiple petitions questioning the status of certain religious sites.

The Court highlighted Section 4 of the Places of Worship Act, which explicitly prohibits changing the religious character of any place of worship as it stood on August 15, 1947. This provision aims to protect the secular fabric of Indian society and prevent unnecessary disputes over religious sites.

Chief Justice of India Sanjiv Khanna, leading a three-judge bench, emphasized that the Act serves as a crucial legislative measure to maintain harmony and avoid conflicts over religious places. The judgment noted that while new suits can technically be initiated, they cannot be registered or proceeded with until further orders from the Court. Additionally, the Court directed that no interim or final orders, such as those mandating surveys, should be issued in ongoing cases until the next hearing or further instructions.

The Court also referenced the Act's exceptions, which include cases involving historical monuments protected under the Ancient Monuments and Archaeological Sites and Remains Act, 1958, as well as litigation that was already in progress before the 1991 Act came into force.



This judgment underscores the judiciary's role in upholding the legislative intent of preserving the status quo of religious sites as of 1947. It highlights the importance of legal mechanisms in handling sensitive religious issues while fostering national unity and peace. By reaffirming the Places of Worship Act, the Supreme Court has once again emphasized the importance of maintaining the sanctity of India's legal framework concerning religious sites.

READ MORE:

- <https://www.livelaw.in/top-stories/supreme-court-bars-registration-of-new-suits-against-places-of-worship-stops-courts-from-passing-effectivefinalsurvey-orders-in-pending-suits-278147>
- <https://timesofindia.indiatimes.com/india/supreme-court-hearing-places-of-worship-act-1991-live-updates-cji-sanjiv-khanna-hindu-temples-mosque/liveblog/116242976.cms>

THE SUPREME COURT HOLDS THAT HINDU MARRIAGES PERFORMED WITHOUT PROPER CEREMONIES ARE INVALID

The Supreme Court of India has consistently reaffirmed that the validity of Hindu marriages hinges on the performance of essential religious ceremonies. This was notably emphasized in the landmark case of *Priya Bala Ghosh v. Suresh Chandra Ghosh* (1971), where the Court clarified that a Hindu marriage cannot be deemed legally binding without the completion of prescribed rites and rituals.

The case revolved around a dispute concerning the validity of a marriage where critical rituals were allegedly not performed. The Supreme Court, in its judgment, stated that essential ceremonies such as Saptapadi (taking seven steps around the sacred fire) are indispensable for the solemnization of a Hindu marriage. "A marriage is not complete without the performance of the essential rites and ceremonies prescribed by the Hindu Marriage Act, 1955," the Court observed, reiterating the importance of religious and customary practices in legitimizing matrimonial unions.

The Hindu Marriage Act, 1955, specifies that ceremonies must be conducted according to the customs prevalent in the community to which the parties belong. This can include additional rituals based on regional and familial traditions. The Act further asserts that in cases where the

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MONTHLY NEWSLETTER OF THE CIVIL AND CRIMINAL JUSTICE CELL, NLIU

ceremony of Saptapadi is involved, the marriage becomes binding only upon the completion of the seventh step.

The judgment reinforced that non-compliance with these prescribed rituals could render the marriage invalid in the eyes of the law. The Court also noted that merely cohabiting or presenting oneself as a married couple without fulfilling the ceremonial requirements does not constitute a legally recognized marriage. This ruling serves as a vital precedent, underscoring that while mutual consent and registration are significant, the performance of necessary ceremonies holds paramount legal importance in Hindu marriages.

READ MORE:

- <https://www.thehindu.com/news/national/hindu-marriage-not-valid-unless-performed-with-requisite-ceremonies-sc/article68130754.ece#:~:text=A%20Hindu%20marriage%20is%20not,under%20the%20Hindu%20Marriage%20Act>
- <https://www.livelaw.in/supreme-court/hindu-marriage-invalid-if-requisite-ceremonies-not-performed-registration-wont-make-such-a-marriage-legitimate-supreme-court-256594>

A DVOCATES CAN'T BE HELD LIABLE UNDER THE CONSUMER PROTECTION ACT FOR THE DEFICIENCY OF SERVICES

The Supreme Court of India has ruled that advocates cannot be held liable under the Consumer Protection Act, 1986, for deficiency in services provided to their clients. This decision clarifies that the relationship between advocates and their clients does not fall within the ambit of 'consumer' and 'service provider' as defined by the Act.

The judgment was delivered in response to multiple petitions filed by clients alleging inadequate or negligent legal services by their advocates. The petitioners contended that legal practitioners, like professionals in other fields, should be accountable for the quality of services they render.

The Supreme Court bench, however, emphasized that legal services are inherently distinct from commercial services and are governed by professional ethics and regulations under the Advocates Act, 1961. The Court observed, "The relationship between a lawyer and client is based on trust and fiduciary duty, and any alleged misconduct or negligence falls within the purview of the Bar Council, not the Consumer Protection Act."



Citing *V.B. Joshi v. Union of India* (2010), the Court reiterated that legal practitioners are bound by the standards and disciplinary mechanisms established by the Bar Council of India. The judgment underscored that introducing consumer litigation into legal practice could undermine the independence of the profession and interfere with the unique nature of legal representation.

The ruling highlights the importance of preserving the sanctity of legal practice, maintaining that remedies for grievances against advocates should be sought through appropriate disciplinary channels. The Court further clarified that clients retain the right to file complaints with the State Bar Councils or approach the courts for malpractice or negligence, ensuring that advocates remain accountable within the established legal framework.

READ MORE:

- <https://disputeresolution.cyrilamarchandblogs.com/2024/05/advocates-no-longer-liable-under-consumer-protection-laws-for-alleged-deficiency-in-services/>
- <https://www.sconline.com/blog/post/2024/05/14/a-advocates-are-not-liable-under-consumer-protection-act-deficiency-of-services-supreme-court/>
- <https://www.livelaw.in/supreme-court/advocates-liable-under-consumer-protection-act-for-deficiency-of-services-supreme-court-257837>

THE CCJC EXPRESS

MONTHLY NEWSLETTER OF THE CIVIL AND CRIMINAL JUSTICE CELL, NLIU

LITIGANTS CANNOT WITHHOLD CLAIMS OR ISSUES ONLY TO RAISE THEM IN SUBSEQUENT LITIGATION: SUPREME COURT

In a recent landmark decision, the Supreme Court of India emphasised that parties cannot deny claims or concerns in one court case and then bring them up in another. The purpose of this ruling is to stop parties from taking advantage of procedural weaknesses and deftly navigating through various channels to reopen issues they had previously decided not to pursue.

The lawsuit started as a disagreement over certain allegations that the parties had neglected to bring up during their early hearings. The Supreme Court noted that permitting such actions would compromise the fairness of the legal system and cause needless hold-ups and problems in the settlement of cases. The Court emphasised that rather than keeping up pertinent claims and defences for possible future action, parties must make them at the right moment. The Court emphasised that each party must appear in court with "clean hands," which means they must reveal all pertinent and significant facts and allegations. It is improper to withhold facts or allegations as it may be seen as an effort to influence the legal system.

The decision attempts to prevent the misuse of the judicial system, when litigants may purposefully leave out certain claims in one case just to bring them up again later. Confusion, protracted litigation, and a backlog of cases in the courts may result from this strategy. The decision encourages finality in court procedures by mandating that plaintiffs state all claims at once. Because it discourages piecemeal litigation and encourages parties to address their problems holistically, this is crucial for preserving public trust in the legal system. Since permitting several lawsuits over related matters might squander court resources and time, the Court's ruling also demonstrates concern for judicial economy. The Court strives to expedite the litigation process by requiring that all relevant claims be brought up in a single session.



This decision has important ramifications for future court cases in India. Litigating parties will have to prepare their cases more thoroughly, making sure to cover all possible defences and claims right away. Attorneys may need to change their tactics and counsel clients not to put off making any claims or addressing any difficulties until later. The number of appeals or follow-up lawsuits may decrease as a result of more thorough initial filings. By decreasing cases of recurrent litigation and promoting speedier conflict settlement, the ruling is anticipated to improve court system efficiency.

The Supreme Court's decision is an essential reminder of how vital honesty and openness are in court procedures. The Court upholds core values of justice and equity by forbidding litigants from retaining claims for future use. In the end, this ruling benefits all parties engaged in litigation by upholding the integrity of legal procedures and encouraging a more effective legal system. This decision establishes a precedent that will probably affect future plaintiffs' approaches to their claims, encouraging a culture of diligence and integrity in legal representation.

READ MORE:

- <https://www.barandbench.com/news/litigants-cannot-withhold-claims-issues-only-raise-subsequent-litigation-supreme-court>
- <https://www.livelaw.in/tags/celir-llp-v-ms-sumati-prasad-bafna-and-others>

SUPREME COURT CLARIFIES "HOUSE TRESPASS" DOES NOT APPLY TO RESTAURANTS

The Supreme Court in the case of *Sonu Choudary v. State of NCT Delhi* (2024 INSC 864) recently set aside the conviction of a man under Section 452 of the Indian Penal Code (IPC), which pertains to "house trespass after preparation for hurt," while upholding his conviction under Section 324 for voluntarily causing hurt.

The appellant-accused entered a restaurant, where he injured the owner with a knife after being denied a jug of water for consuming alcohol. He was charged under Sections 324 and 452 IPC. While both the trial court and the High Court convicted him, the Supreme Court partly allowed the appeal by acquitting him under Section 452 IPC.

Further, The Court clarified that a restaurant does not qualify as a "house" under Section 442 IPC, which defines "house trespass" as entering or unlawfully remaining in a structure used for dwelling, worship, or custody of property. Since a restaurant serves none of these purposes, the essential criteria for invoking Section 452 IPC were not satisfied.

THE CCJC EXPRESS

MONTHLY NEWSLETTER OF THE CIVIL AND CRIMINAL JUSTICE CELL, NLIU

The bench emphasized that “house trespass” under Section 452 IPC requires proof that the accused entered or unlawfully stayed in a place defined under Section 442 IPC. As the restaurant did not meet these conditions, the accused’s conviction under Section 452 IPC was unsustainable.

The Court upheld the conviction and sentence under Section 324 IPC but acquitted the appellant under Section 452 IPC. Since the appellant had already served two years in jail, the Court ordered his release unless he was required in another case. However, he remained liable to pay the fine for his conviction under Section 324 IPC.

In conclusion, the Supreme Court partly allowed the appellant's appeal by acquitting him of the conviction under Section 452 IPC, clarifying that a restaurant does not qualify as a "house" under Section 442 IPC, as it is not used for dwelling, worship, or custody of property. The Court emphasized that "house trespass" requires the entry into a structure used for specific purposes, which a restaurant does not fulfil. However, the Court upheld the conviction under Section 324 IPC for voluntarily causing hurt and ordered the appellant's release, as he had already served two years in jail, though he remained liable to pay the fine imposed for the Section 324 IPC conviction.

READ MORE:

- <https://www.livelaw.in/supreme-court/offence-within-restaurant-not-house-trespass-as-per-sections-442-452-ipc-supreme-court274893#:~:text=452%20of%20IPC,->
- [The%20bench%20comprisng%20Justice%20Bela%20M%20Trivedi%20and%20Justice%20Satish,for%20the%20custody%20of%20property](#)

SUPREME COURT CONDEMNS ARBITRARY DEMOLITION BY EXECUTIVE AS ABUSE OF POWER: BULLDOZER JUSTICE

The Supreme Court in *Re: Directions in the matter of Demolition of Structures v. and Ors.* (2024 INSC 866) has strongly condemned the executive's practice of demolishing properties of accused persons without following due process of law. The Court ruled that such actions constitute an "abuse of power" and violate the fundamental principles of the rule of law and separation of powers enshrined in the Constitution.

Further, the bench stated that demolishing a house without due process is a high-handed action by the executive, which undermines the principles of natural justice and constitutional democracy. It emphasized that such arbitrary actions would have to be dealt with a "heavy hand of the law."

The Court held that even in cases of convicted individuals, property cannot be demolished without following the law. Arbitrary demolitions, particularly against accused individuals who have not undergone trial, strike at the core of the rule of law. The judiciary emphasized that the executive cannot act as a judge, punishing accused persons by destroying their property.

On the separation of powers, the Court noted, “The executive wing and the judicial wing of the Constitution perform their functions in their respective spheres. For the executive to take on adjudicatory functions and punish individuals without trial is wholly impermissible in our Constitutional setup.”

On highlighting the rights of accused individuals, the judgment reaffirmed their right to dignity and a fair trial. It ruled that punishment must always be lawful and humane, even for convicts. The Court emphasized that “an accused is not guilty unless proven so in a court of law,” and arbitrary actions by the State against accused persons violate foundational legal principles. It called for institutional accountability to address violations of rights caused by the State’s arbitrary actions.

In conclusion, the Supreme Court strongly condemned the executive's practice of demolishing properties of accused persons without due process, asserting that such actions constitute an abuse of power and violate the fundamental principles of the rule of law and separation of powers. The Court emphasized that demolitions based solely on accusations, without due process, are unconstitutional and held public officials responsible for such actions, stressing the importance of upholding constitutional safeguards.

READ MORE:

- <https://indianexpress.com/article/india/supreme-court-bulldozer-justice-verdict-9667107/#:~:text=A%20bench%20of%20Justices%20B%20R,would%20be%20transgressing%20its%20limits%2080%2D9D>
- <https://www.liveland.in/top-stories/supreme-court-bulldozer-matter-ruling-executive-cannot-become-judge-and-take-over-functions-of-judiciary-abuse-of-power-275075>

SUPREME COURT REINSTATES WOMAN SARPANCH, SLAMS STATE FOR HARASSMENT

In the case of *Sonam Lakra v. State of Chhattisgarh & Ors.* (2024 INSC 901), the Supreme Court set aside the removal of a young woman Sarpanch in Chhattisgarh and directed an inquiry into the officials responsible for her unwarranted harassment. The Court imposed a cost of ₹1 lakh on the state government, payable to the appellant within four weeks.

On observing the bench criticized the state authorities for their high-handedness in removing an elected Sarpanch on unjustifiable grounds. The Court remarked that the appellant, a 27-year-old woman who contested the election to serve her village, was wronged without valid reasons.

THE CCJC EXPRESS

MONTHLY NEWSLETTER OF THE CIVIL AND CRIMINAL JUSTICE CELL, NLIU

The delay in construction works was cited as a pretext for her removal, despite the involvement of contractors, engineers, and external factors beyond her control.

The Court stated, "How can a Sarpanch be responsible for the delay in construction works unless it is found that there was a delay in allocation of work or performance of a specific duty assigned to the elected body? The initiation of proceedings was a lame excuse, and the appellant was removed on false pretexts."

Adding the fact the appellant, elected as Sarpanch in 2020, faced accusations of delays in completing construction works allocated to the Gram Panchayat. A notice demanding completion of the works was issued in December 2022 but served only in March 2023. Despite her explanations, she was removed from office in January 2024. After her plea was rejected by the High Court, she approached the Supreme Court.

The Court observed, "A matter concerning the removal of an elected representative, especially a woman in a rural area, must not be taken lightly." It condemned the expectation for elected women to seek favours from bureaucrats for justice. Finally, The Supreme Court reinstated the appellant as Sarpanch and imposed a cost of ₹1 lakh on the state, payable within four weeks. It also directed an inquiry to hold the responsible officers accountable for their actions.

In conclusion, the Supreme Court set aside the unjust removal of the young woman Sarpanch in Chhattisgarh, reinstating her until the end of her term and imposing a cost on the state government, payable within four weeks. The Court criticized the arbitrary actions of state authorities, highlighting the wrongful grounds for her removal and the unjust delay in addressing construction works. It further directed an inquiry into the officials responsible for her harassment, with an emphasis on holding them accountable. The Court also condemned the discriminatory treatment of women representatives, particularly in rural areas, and underscored the importance of respecting the rights of elected officials, particularly women, in governance.

READ MORE:

- <https://www.hindustantimes.com/india-news/sc-slams-gender-bias-in-public-office-reinstates-chattisgarh-sarpanch-101731609581079.html>
- <https://www.livelaw.in/top-stories/distressing-to-witness-discrimination-against-women-in-governance-when-country-aspires-to-be-economic-powerhouse-supreme-court-276596>

MERE BREAKUP OF CONSENSUAL RELATIONSHIP CANNOT LEAD TO CRIMINAL PROCEEDINGS

The Supreme Court in *Prashant v. State of NCT of Delhi* (2024 INSC 879) quashed a criminal case against a man accused of repeatedly raping a woman under the false pretext of marriage, emphasizing that the non-materialization of a consensual relationship into marriage cannot be given a criminal colour.

Observation made by the bench remarked, It was observed that criminal proceedings cannot be initiated simply because a relationship between two consenting individuals comes to an end. What began as a consensual relationship between the parties cannot be considered criminal just because it did not develop into a marital relationship.

The complainant had alleged that the appellant had sexually exploited her under the false promise of marriage and threatened to harm her family if she refused to engage in further physical relations. However, the Court found no evidence to suggest that the relationship commenced with a promise of marriage.

The bench observed that the FIR and the complainant's statement under Section 164 CrPC revealed no indication of a marriage promise at the outset of their relationship in 2017. It held that the relationship was consensual, as evidenced by the complainant's continued association with the appellant even after the alleged incidents.

Ultimately the Supreme Court held that the High Court erred in concluding that there was no consent on the complainant's part. It ruled that the allegations did not meet the legal requirements for offences under Sections 376(2)(n) (repeated rape) and 506 (criminal intimidation) of the Indian Penal Code (IPC).

The Court stated, "The facts of the present case are appropriate for the High Court to have exercised the power available under Section 482 CrPC to prevent abuse of the court's process by continuing the prosecution." Finally, the appeal was allowed, and the FIR against the appellant was quashed.

In conclusion, the Supreme Court quashed the criminal case against the man accused of repeatedly raping a woman under the false pretext of marriage, emphasizing that the non-materialization of a consensual relationship into marriage cannot be treated as a criminal act. The Court found no evidence of a promise of marriage at the outset of the relationship and noted that the complainant's

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MONTHLY NEWSLETTER OF THE CIVIL AND CRIMINAL JUSTICE CELL, NLIU

continued association with the appellant indicated consent. It held that the allegations did not meet the legal criteria for offences under Sections 376(2)(n) and 506 IPC. The Court affirmed that the High Court had erred in its assessment and ruled that the case was fit for dismissal under Section 482 CrPC to prevent misuse of the legal process, ultimately allowing the appeal and quashing the FIR.

READ MORE:

- <https://www.barandbench.com/news/litigation/mere-breakup-relationship-cannot-rape-case-against-man-supreme-court>
- <https://www.livewill.in/supreme-court/mere-breakup-of-relationship-between-consenting-couple-cannot-result-in-criminal-proceedings-supreme-court-275826#:~:text=Observing%20that%20the%20non%2Dmaterialization,the%20false%20pretext%20of%20marriage>

UNPRIVILEGED WILL CAN BE EXECUTED IF ATTESTING WITNESS SEES TESTATOR SIGN OR AFFIX MARK, UNDER S. 63(C) INDIAN SUCCESSION ACT: SUPREME COURT

On January 8, 2024, Justice C.T. Ravikumar and Justice Sanjay Karol noted that in the case of an 'Unprivileged Will', execution under section 63(c) of the Indian Succession Act, 1925 is determined when at least one of the attesting witnesses has seen the testator sign or affix a mark on the Will. Section 63 of the Act deals with procedural requirements concerning the execution of unprivileged Wills.

The Respondent contested the validity of the Will, claiming the testator did not affix his thumb impression and that condition (b) was not fulfilled. Condition (b) applies only when the testator does not personally sign or affix their mark but directs another person to do so on their behalf. In such cases, attesting witnesses must observe the person signing the Will at the testator's direction. The Appellants argued that the testator was mentally sound and had affixed his thumb impression on the Will, fulfilling condition (a) and making condition (b) irrelevant. While the trial court ruled for the Respondent, the First Appellate Court favored the Appellants. The Supreme Court reversed the High Court's decision, affirming the validity of the "Unprivileged Will" and emphasizing that the Will is valid if attesting witnesses observe the testator signing or affixing their mark.

Justice Karol held in judgment that since the section 63(c) of the Act uses the term "or" it means alternatives instead of cumulative requirements. It is enough to fulfill any of the stipulated conditions required by the law for valid execution of Will. The court said that witnessing by mark applies alone, concerning the testator. It observed that it would precisely, in this case, apply to the case of testimony of DW-1 showing that he saw the deceased affix his mark on the will, which shall be enough for compliance with Section 63(c). Condition (b) only applies where another person

signs the Will in the presence and at the direction of the testator. Therefore, it allowed the appeal, holding that the High Court had wrongly added certain other conditions under section 63(c) against Appellants.

The Supreme Court held that the testator's thumb impression, witnessed by attesting witnesses, satisfied the requirements of Section 63(c) of the Indian Succession Act, making condition (b) irrelevant. The Court clarified that the use of "or" in the section indicates alternatives, not cumulative conditions. The appeal was allowed, with the High Court's decision reversed, affirming the validity of the "Unprivileged Will."

READ MORE:

- <https://www.livewill.in/supreme-court/s-63c-indian-succession-act-unprivileged-will-executable-if-attesting-witness-sees-testator-signing-or-affixing-mark-on-will-supreme-court-280081>
- https://api.sci.gov.in/supremecourt/2018/27882/27882_2018_17_1503_58238_Judgement_02-Jan-2025.pdf

SUPREME COURT CLARIFIES WHEN A DEFENDANT CAN BE DIRECTED TO START PRESENTING EVIDENCE IN A LAWSUIT UNDER ORDER XVIII RULE 1 CPC

In the case of *Jami Venkata Suryaprabha v. Tarini Prasad Nayak & Ors* (2024 SC 29045), the Supreme Court clarifies the stance on when a Defendant can be directed to start presenting evidence in a lawsuit. The Division Bench consisting of Justice J.B. Pardiwala and Justice R. Mahadevan explained the circumstances under which a defendant gets the right to begin in a suit hearing as per Order XVIII Rule 1 of the Civil Procedure Code.

This matter involved an appeal against the order dated 23rd September 2024 of the High Court by which the petitioners (original plaintiffs) are challenging the determination of the Civil Judge at Paralakhemundi. The Civil Judge rejected the application of petitioners under Order XVIII Rule 1 of the Civil Procedure Code, 1908, as regards the order of presenting evidence. Petitioners filed a case for specific performance of a contract based on an agreement of sale dated 1st September 2019, allegedly executed by the defendants (respondents). In their written statement, the defendants claimed that the plaintiffs' allegations, particularly regarding letters sent by ordinary post and courier, were false and fabricated to create a cause of action for the suit.

Petitioners, as plaintiffs, filed an application in the trial court under Order XVIII Rule 1 of the Civil Procedure Code, 1908, that the defendants would be called upon to lead oral evidence because they were not disputing the agreement of sale. The trial

THE CCJC EXPRESS

MONTHLY NEWSLETTER OF THE CIVIL AND CRIMINAL JUSTICE CELL, NLIU

court did not entertain the application. Aggrieved by this order, the petitioners approached the High Court under Article 227 of the Constitution. However, the High Court refused to interfere. Therefore, the petitioners have now approached this court with a fresh petition.

The court affirmed that the plaintiff bears the burden of proving their claim with positive evidence, though they can rely on written statements or cross-examination. In the case, the defendants admitted an "agreement of sale" but claimed it was a sham. The High Court correctly ruled that admissions in the written statement don't automatically validate the plaintiff's facts. Under Section 102 of the Evidence Act, the party that would lose without evidence bears the burden of proof, and the defendant may be required to present evidence first if their defence could resolve the case. The Supreme Court upheld the High Court's decision, emphasizing that procedural rules should serve justice, and dismissed the Special Leave Petition (SLP) and other pending applications.

READ MORE:

- https://api.sci.gov.in/supremecourt/2024/53062/53062_2024_15_45_57857_Judgement_09-Dec-2024.pdf
- <https://www.livewall.in/top-stories/when-defendant-can-be-asked-to-begin-evidence-in-suit-supreme-court-explains-order-xviii-rule-1-cpc-278830>

MANDATORY TO HEAR THE INFORMANT OR VICTIM BEFORE GRANTING BAIL IN CASES INVOLVING RAPE OR OFFENSES UNDER THE SC/ST ACT.

On December 13, 2024, the Supreme Court of India ruled that it is mandatory for courts to hear the victim or informant before granting bail in cases involving rape or offences under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The division bench, comprising Justice Bela M. Trivedi and Justice Satish Chandra Sharma, emphasized the importance of considering the victim's opinion in such criminal proceedings. The Court's decision mandates that the victim must be notified and their views considered before deciding bail applications in cases related to rape or offences under the SC/ST Act.

The appeals were filed by the appellant (victim) against two High Court orders from August 11, 2023, which granted bail to the accused in FIR No. 599 of 2021. The case involved serious charges under Sections 323, 363, 376DA, 506, 392 of the IPC, Sections 5(g) and 6 of the POCSO Act, and Sections 3(2) and 5(A) of the SC/ST Act. The victim questioned her right to be heard and included in the bail proceedings, as she was not notified. The accused did not make her a party to the proceedings, and the Public Prosecutor failed to inform her.

Under Section 439(1A) of the Criminal Procedure Code (Cr.P.C.), it is mandatory for the informant or an authorized person to be present during bail hearings in cases of sexual offences. Additionally, Section 15A(3) of the SC/ST Act requires the Special Public Prosecutor to inform the victim about court proceedings, including bail hearings. In this case, the victim was not included or informed, violating these statutory provisions.

The Supreme Court identified the violation of these mandatory requirements, as the victim was excluded from the bail proceedings. The Court noted that the High Court had granted bail without considering these legal obligations or providing sufficient reasoning. As a result, the Supreme Court set aside the High Court's order and directed the accused to surrender before the Trial Court by December 30, 2024. Both appeals were allowed, and all pending applications were disposed of accordingly.

The Supreme Court ruled that it is mandatory for the court to hear the victim or informant before granting bail in cases involving rape or offences under the SC/ST Act. The Court found that the High Court had violated statutory provisions by not involving the victim in the bail proceedings. Consequently, the High Court's orders were set aside, and the accused were directed to surrender to the Trial Court.

READ MORE:

- <https://www.livewall.in/supreme-court/mandatory-to-hear-informant-victim-before-granting-bail-in-rape-offences-sct-st-act-cases-supreme-court-278638>
- https://www.verdictum.in/pdf_upload/x-v-the-state-of-uttar-pradesh-anr-1674788.pdf



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MONTHLY NEWSLETTER OF THE CIVIL AND CRIMINAL JUSTICE CELL, NLIU

SECTION 53-A OF THE TRANSFER OF PROPERTY ACT EXEMPTS REQUIREMENT FOR WRITTEN AND REGISTERED CONTRACTS IN CASE OF PART PERFORMANCE

The Apex Court, in the case of *Giriyappa & Anr. v. Kamalamma & Ors.* observed that Section 53-A of the Transfer of Property Act applies to protect transferees in part performance as an exception to the essential requirement of the contracts being in writing and registered. The Division Bench of the Hon'ble Supreme Court, consisting of Justice J.B. Pardiwala and Justice R. Mahadevan, in the case of *Giriyappa & Anr. v. Kamalamma & Or.* clarified the conditions for invoking Section 53A of the Transfer of Property Act, 1882.

The Supreme Court heard an appeal from the Karnataka High Court's dismissal of the Petitioners' Second Appeal in Regular Second Appeal No. 1740/2008, which had upheld the decisions of the First Appellate Court and the Trial Court. The Petitioners claimed that although the Respondents were the legal owners, a sale agreement was executed on November 25, 1968, for 2 guntas of land for Rs. 850, and they had been in continuous possession since then. However, the HC found that the Petitioners failed to prove the execution of the sale agreement or their possession under it, based on oral and documentary evidence. The Plaintiff also provided evidence of constructing a shed on the property in 1982-1983, while the Defendant had illegally occupied it from 1983-1984. The Defendant's claim for occupancy rights was rejected in 1987.

The Supreme Court, after reviewing the case, outlined the conditions to invoke Section 53A of the Transfer of Property Act, 1882: a written contract signed by the transferor, possession taken or continued by the transferee in part-performance, and the transferee performing or willing to perform their part of the contract. The Court clarified that if these conditions are met, the transferor cannot claim against the transferee, even if the transfer is incomplete, except when the transferee has paid consideration and is unaware of the contract or its partial performance. The Court emphasized that Section 53A was introduced to protect transferees by relaxing strict legal requirements, but this exception must be narrowly interpreted. Based on this, the SC dismissed the Special Leave Petition.

The Supreme Court emphasized that simple possession or a sale agreement alone is not enough to invoke Section 53A; clear evidence of the contract's execution, part-performance, and the transferee's actions advancing the contract is required. The Court reiterated that the provision must be strictly interpreted, highlighting that the Defendant's failure to prove the sale agreement or possession under it underscores the critical importance of documentary evidence in property disputes.

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- <https://www.verdictum.in/court-updates/supreme-court/giriyappa-anr-v-kamalamma-ors-2024-insc-1043-part-performance-sec53-a-transfer-of-property-act-1562009>

SUPREME COURT REITERATES CONSISTENCY IN CONVICTING CO-ACCUSED BASED ON IDENTICAL EVIDENCE

In *Yogarani v. State by the Inspector of Police*, the Supreme Court stressed the need for consistency and fairness in criminal proceedings, ruling that a court cannot convict one accused while acquitting others if the evidence is identical or similar. The appellant was acquitted after her co-accused, charged with the same offences, were exonerated without appeal. Referring to *Javed Shaukat Ali Qureshi v. State of Gujarat*, the Court stated that convicting one accused and acquitting others in similar circumstances violates natural justice and equality before the law. It emphasized, "The Court cannot convict one accused and acquit the other when there is similar or identical evidence pitted against two accused persons."

The appellant was charged under Section 12(1) of the Passports Act for allegedly facilitating the issuance of a second passport to Accused No. 1, who already had a passport deposited with his employer in Dubai. The prosecution claimed that the appellant, along with co-accused, conspired to help Accused No. 1 obtain a second passport for better job prospects. However, the lower courts acquitted the co-accused due to insufficient evidence, as the prosecution failed to prove they had handed over the second passport to Accused No. 1 at the appellant's request. Since the allegations against the appellant were identical to those against the acquitted co-accused, the Supreme Court ruled that her conviction was unsustainable.

The bench, comprising Justices Sanjay Kumar and Aravind Kumar, emphasized that judicial proceedings must ensure consistent outcomes when the evidence and allegations are identical. The Court found the prosecution's evidence insufficient to prove that the appellant knowingly facilitated the second passport's issuance. Without proof that the appellant knew Accused No. 1 already held a passport, the Court granted her the benefit of the doubt and acquitted her. The ruling reinforced the burden of proof on the prosecution to establish guilt beyond a reasonable doubt and emphasized the importance of fairness, impartiality, and consistency in judicial decisions, particularly when similar evidence is involved. The decision also reaffirmed the presumption of innocence and upheld the fundamental principles of justice.

The Supreme Court's ruling here reinforces the principles of consistency, fairness, and equality in judicial proceedings. By acquitting the appellant, the Court emphasized the importance of ensuring that similar evidence leads to uniform

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MONTHLY NEWSLETTER OF THE CIVIL AND CRIMINAL JUSTICE CELL, NLIU

outcomes. This decision serves as a vital reminder for the judiciary to uphold impartiality and safeguard individual rights in criminal cases.

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- <https://www.livelaw.in/supreme-court/cant-convict-one-accused-acquit-another-when-similar-evidence-was-pitted-against-them-supreme-court-270469?fromIpLogin=89332.20555140424>
- <https://www.verdictum.in/court-updates/supreme-court/yogarani-v-state-2024-insc-721-court-cannot-convict-an-accused-acquit-other-when-similar-evidence-pitted-against-other-accused-1552423>

B E SENSITIVE": J&K HIGH COURT URGES TRIAL COURTS TO AVOID 'COPY-PASTE' PRACTICES IN BAIL ORDERS

In the case of *Umar Bashir Khan v. UT of J&K*, the High Court of Jammu and Kashmir highlighted the importance of judicial diligence. The judgment emphasized on how the delay in granting bail amounts to violation of the person's 'Fundamental Right to Life & Liberty'. The primary issue was "Whether the trial court's reasoning relied on an entirely irrelevant narrative that had no bearing on the petitioner's case?"

The High Court observed that the prosecutrix's testimony during the trial contradicted her initial allegations. In her December 2018 complaint, she had alleged that the petitioner entered her house during the night of December 5-6, attacked her, attempted to sexually assault her, and threatened her life. Based on her complaint, the police registered an FIR, recorded her statement under Section 164 of the CrPC, and filed a chargesheet in 2021, framing charges under the relevant sections. However, as the trial progressed, the prosecutrix admitted that the incident stemmed from a family dispute and denied that any sexual assault had occurred.

The Court noted that this created reasonable doubt about the petitioner's involvement in the alleged attempted rape. It was also argued that the trial court had rejected the bail application mechanically, without thoroughly examining the facts or evidence on record. After reviewing the submissions and evidence, Justice Sanjay Dhar criticized the trial court's handling of the bail application, highlighting the need for greater diligence. He cautioned courts against the "copy-paste syndrome" that has infiltrated judicial proceedings, emphasizing that such practices undermine individuals' fundamental rights.

The Court concluded that criminal courts must remain sensitive and vigilant while handling bail applications and avoid the copy-paste syndrome which, of late, has crept into judicial functioning.

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- <https://www.livelaw.in/high-court/jammu-kashmir/jammu-and-kashmir-high-court-be-sensitive-careful-while-dealing-with-bail-applications-court-urges-courts-to-eschew-copy-paste-practices-in-bail-orders-279603>
- <https://www.scconline.com/blog/post/2025/01/02/jk-and-ladakh-high-court-urges-criminal-courts-to-remain-sensitive-and-avoid-copy-paste-syndrome-in-bail-matters-scc-times/>



DOCTRINE OF EQUALITY APPLIES TO PUNISHMENTS ACROSS DIFFERENT FORCES UNDER SAME ADMINISTRATIVE FRAMEWORK: DELHI HC

In *Arunachalam P. v. Director General CISF*, (2024 SCC OnLine Del 15177) the High Court held that the 'Doctrine of Equality' applies to punishments across different forces under the Ministry of Home Affairs and clarified that forces operating under the same administrative framework must receive similar treatment.

Two CISF constables working at the Indian High Commission in Dhaka, while on duty during Republic Day celebrations, failed to report a breach committed by a woman who gained unauthorized entry into the Chancery. Following this incident, they were sent back to India and despite no action having been recommended, the CISF started a disciplinary inquiry under Rule 36 of the CISF Rules, 2001, and accused the two of misconduct and negligence which recommended their removal. The constables argued that an ITBP officer who had a bigger role in the incident wasn't accused of the same and was let off by only a "severe reprimand". This incident constituted discriminatory treatment.

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MONTHLY NEWSLETTER OF THE CIVIL AND CRIMINAL JUSTICE CELL, NLIU

The High Court held that this constituted unequal treatment, as lesser offences cannot receive more stringent punishment. The court also held that the punishment did not match the seriousness of the constables' actions. Citing *Rajendra Yadav v. State of Madhya Pradesh* (2013 3 SCC 73), the court held that a disciplinary authority cannot impose disproportionate punishment and reiterated that the doctrine of equality also applies to those who are found guilty.

The court rejected the respondents' argument that ITBP and CISF follow different rules and thus cannot be compared by noting that both forces operate under the Ministry of Home Affairs and are governed by similar regulations. It held that the rules of parity dictate that forces under the same administrative framework must be given similar treatment.

Lastly, the court questioned whether it was appropriate for CISF to conduct its own inquiry and impose penalties, when the High Commission (being directly involved in the matter) did not recommend any action. It clarified that the purpose of the High Commission inquiry was only to find out if the petitioners should be repatriated. It held that while CISF could conduct its own inquiry, the punishment could not be disproportionate. Thus, the court ordered the petitioners' reinstatement and allowed the writ petition.

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- <https://www.livelaw.in/labour-service/doctrine-of-equality-punishments-across-different-forces-same-administrative-framework-delhi-hc-279575>

U APA CONTEMPLATION OF TERRORIST ACT FOR YEARS EVEN WITHOUT GIVING EFFECT TO IT CONSTITUTES A TERRORIST ACT: DELHI HIGH COURT

In *Mohd Abdul Rehman v. State NCT of Delhi*, the Delhi High Court has observed that contemplation of a terrorist act for years even if it may be carried out to after several years constitutes a terrorist act.

The Delhi High Court, while hearing an appeal against the conviction of a member of Al-Qaida in the Indian Subcontinent under the Unlawful Activities (Prevention) Act (UAPA), stressed that planning a terrorist act over a long period, even if executed much later, still qualifies as a terrorist act under Section 15 of the UAPA. The bench, comprising Justice Prathiba M. Singh and Justice Amit Sharma, made this observation while reviewing the case.

A division bench comprising Justice Prathiba M. Singh and Justice Amit Sharma clarified that the definition of a "terrorist act" under Section 15 of the UAPA explicitly includes actions carried out "with intent to strike terror," by any means, regardless of their nature. They emphasized that this definition is not limited to immediate acts of terror but also extends to plans and activities that may remain under consideration for years before being carried out.

The appellant had challenged his conviction under Sections 18 and 18B of UAPA, which respectively punish conspiracy, preparation, and recruitment for terrorist acts. The prosecution argued that the appellant, a member of AQIS, was involved in sending individuals to Pakistan for arms training, meeting with prominent figures like the Chief of Lashkar-e-Taiba and Jamat-ud-Dawa (linked to the 26/11 Mumbai attacks), and propagating inflammatory speeches inciting violence against India. Evidence included testimonies of Prosecution Witnesses who described the appellant's radicalizing speeches targeting specific groups and calling for Muslim unity against perceived conspiracies by political and social entities. The Court noted that while no specific act was identified, the appellant's actions, planning terrorist activities, delivering inflammatory speeches, recruiting individuals, and conspiring with Pakistan-based organizations fulfilled the requirements of preparation under Section 18 UAPA. It further observed that speeches brainwashing youth and attempting recruitment for illegal acts fall within terrorist activities.

The Court highlighted that even covert or secretive support to terrorist organizations qualifies as a conspiracy under the Act. Concluding that the evidence clearly linked the appellant to a larger network involved in planning terrorist activities, the Court dismissed the appeal and upheld the conviction.

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- <https://www.livelaw.in/high-court/delhi-high-court/uapa-contemplation-of-terrorist-activity-without-giving-effect-279527>
- <https://timesofindia.indiatimes.com/india/contemplating-terrorist-act-for-years-is-also-an-act-of-terrorism-delhi-hc/articleshow/116780669.cms>

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DELHI HIGH COURT ISSUES DIRECTIONS FOR SPEEDY DISPOSAL OF COMPROMISE BASED PLEAS TO QUASH FIRS

On December 24, 2024, the Delhi High Court, under Acting Chief Justice Vibhu Bakhru, issued practice directions to address delays in handling petitions seeking the quashing of FIRs based on mutual compromise. The Court identified inefficiencies in existing processes, including procedural bottlenecks, logistical issues requiring personal appearances, and the significant judicial time spent scrutinizing individual cases at the Bench level. To streamline these matters, the Court directed that all such petitions be preliminarily listed before the Joint Registrar (Judicial) for criminal jurisdiction.

The Joint Registrar would be responsible for verifying compliance with Supreme Court guidelines, ensuring that cases are genuine and free from undue influence. For this purpose, the directions mandated the use of Aadhaar-linked verification systems and e-KYC mechanisms to authenticate the identity and consent of the parties involved. Additionally, the Investigating Officer could appear virtually to confirm the identities of the parties if necessary.

The directions further outlined that consent hearings would be conducted via secured video conferencing platforms, eliminating logistical challenges such as scheduling personal appearances and avoiding delays caused by adjournments. Once all conditions for quashing the FIR were verified, the Joint Registrar would prepare a pre-verified report and forward it to the Hon'ble Bench for final consideration. Based on this report, the Bench could issue final orders to quash or dismiss the FIR without requiring a full hearing unless contentious issues were flagged. To further optimize the process, the Court proposed introducing a "Consent Calendar" that would batch non-contentious matters on designated days. This would allow the Hon'ble Judge to collectively review and pronounce orders on multiple petitions en-masse, significantly reducing the need for individual hearings.

For cases involving contentious issues or those not strictly adhering to the parameters laid down by the Supreme Court, the Joint Registrar would flag such matters for full hearings before the Bench. By implementing these procedural innovations, the Delhi High Court aimed to expedite the disposal of non-contentious petitions, preserve judicial time for complex matters, and maintain procedural integrity while ensuring justice for the parties involved.

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- <https://www.livelaw.in/high-court/delhi-high-court/delhi-high-court-issues-directions-for-speedy-disposal-of-compromise-based-pleas-to-quash-firs-279506#:~:text=The%20Delhi%20High%20Court%20has,Vibhu%20Bakhru%20on%20December%202024>
- <https://www.barandbench.com/news/delhi-high-court-issues-directions-ensure-quick-disposal-compromise-based-quashing-petitions>

NATIONAL INVESTIGATION AGENCY ACT | HIGH COURT CAN'T CONDONE DELAY IN FILING APPEAL BEYOND 90 DAYS, S.21(5) MANDATORY: PUNJAB & HARYANA HC

The Punjab & Haryana High Court, while addressing whether it is empowered to condone delays in appeals under the National Investigation Agency Act (NIA), held that the limitation period under Section 21(5) of the Act is mandatory.

Section 21 mandates that appeals must be filed within 30 days of the order or judgment but permits filing beyond 30 days, up to a maximum of 90 days, provided sufficient cause for the delay is shown. However, delays beyond 90 days cannot be condoned.



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A bench of Justice Sureshwar Thakur and Justice Kuldeep Tiwari, relying on the Madras High Court's decision in *Union of India v. Abdul Razak and Ors*, emphasized that courts must adhere to the legislative intent and the unambiguous language of the statute. The court added that the language employed in the provision under the NIA Act was unambiguous and thus the courts could not condone the delay beyond the permissible limits. It observed that expanding or reinterpreting the provision beyond its explicit scope would fall outside judicial interpretative norms.

The Court noted that Section 21(5) of the NIA Act creates a specific limitation framework, excluding the applicability of Sections 5 or 14 of the Limitation Act, and serves to ensure that remedies are promptly pursued. It also clarified that the right to appeal is a statutory, not fundamental, right, and enforcing the limitation period does not infringe on the accused's liberty or Article 21 of the Constitution. The specificity of the period of limitation mentioned in the proviso (Section 21(5) of NIA Act), is to ensure that a prompt remedy becomes canvassed by an aggrieved from the passing of the apposite declining order. The court held that legislative wisdom which infuses the proviso, is plain speaking to the fullest effect, that thereby becomes curtailed the applicability of Section 5 or of Section 14 of the Limitation Act.

It was observed that if the right of appeal is restricted by the said proviso, it does not seem to unjustly curtail the liberty of the accused or prima facie infringe upon the fundamental right to appeal guaranteed under Article 21 of the Constitution of India, which applies to the accused as well.

The bench concluded that the mandatory nature of the provision means that the High Court lacks the power to condone delays beyond 90 days, as stipulated under Section 21(5) of the NIA Act.

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- <https://www.livelaw.in/high-court/punjab-and-haryana-high-court/punjab-haryana-high-court-cant-condone-delay-in-filing-appeal-beyond-90-days-national-investigation-agency-act-uapa-279463#:~:text=The%20Punjab%20%26%20Haryana%20High%20Court,is%20%22mandatory%22%20in%20nature>
- <https://www.barandbench.com/news/high-courts-delay-appeals-nia-act-madras-high-court>

