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CRIMINAL PROCEDURE

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I INTRODUCTION

IN 2014 there have been very important decisions of far reaching impact on the legal system. Having regard to the volume of the case law it may perhaps be true to say that the Supreme Court has covered almost all aspects of criminal procedure. Here only those cases which the author considers important have been surveyed and the trends of development have been captured.

Important and interesting developments have been identified and detailed. One of the aspects that attracted the attention of scholars was the trend of the court issuing directives for the guidance of the courts and other functionaries below. For facility of reference the decisions have been surveyed under different heads such as 'Arrest', 'Investigation', *etc.*

II TRIAL AND TRIAL PROCEDURE

Arrest

Realising that arrest brings humiliation and curtails freedom the Supreme Court calls[1] for change in the police practice in enforcing section 41 Cr PC. The court issued the following directions:[2]

i. All the state government to instruct its police officers not to automatically arrest when a case under section 498A IPC or section 4 of the Dowry Prohibition Act 1961 but also such cases where offence is punishable for a term which may be less than 7 years or which may extend to 7 years whether with or without fine, is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above following from section 41 Cr PC;

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1 *Arnesh Kumar* v. *State of Bihar* (2014) 3 SCC (Cri) 449.

2 *Id*. at 451.

ii. All police officers be provided with a checklist containing specified sub-clauses under section 41 (1) (b) (ii).

iii. The police officer shall forward the checklist duly filled and furnish the reasons and materials which necessitated the arrest, while forwarding / providing the accused before the magistrate for further detention.

iv. The magistrate while authorising detention of the accused shall peruse the report furnished by the police officer in terms of aforesaid and only after recording its satisfaction, the magistrate will authorize detention.

v. The decision not to arrest an accused, be forwarded to the magistrate within two weeks from the date of the institution of case with a copy to the magistrate which may be extended by the Superintendent of the District for the reasons to be recorded in writing.

vi. Notice of the appearance in terms of section 41A Cr PC be served on the accused within two weeks from the date of institution of the case which may be extended by the superintendent of police of the district for the reasons to be recorded in writing.

Bail and anticipatory bail

In UP anticipatory bail under 438 Cr PC is not applicable. It is therefore usual for parties to seek pre-arrest bail under article 226 of the constitution from the high court. The Supreme Court in *Hema Mishra* v. *State of UP* [3] cautioned that this writ power should be sparingly exercised. The court also noted the present requirement of arrest law under section 41 Cr PC serving a notice before arrest is made. The court also quoted its earlier precedent *viz*., *Kartar Singh* v. *State of Punjab*.[4]

In *Pragya Singh Thakur* v. *National Investigation Agency*,[5] it has been categorically ruled that in view of section 16 (3), National Investigation Agency Act, 2008 (hereinafter, NIA) original application for bail in matters where NIA applies, lies only to division bench of two judges of high court. No appeal is provided for any of the interlocutory orders passed by the special court. The only exception to this provision is that orders either granting or refusing bail are made appealable under section 21(4) NIA Act. This is because such order concerns the liberty of the accused and therefore although other interlocutory orders are not appealable appeal is provided against the order granting or refusing bail.

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3 (2014) 4 SCC 453.

4 (1994) 3 SCC 569.

5 (2014) 1 SCC (Cri) 252.

In *State of MP* v. *Pradeep Sharma*[6] due to delay in getting forensic report, the high court granted anticipatory bail to some of the accused suspected of murder. The Supreme Court reversed and ordered them to be taken into custody.

In a case the High Court of Orissa rejected anticipatory bail. Thereafter in an application for anticipatory bail the same court ordered release of the offender on bail. This was disapproved by the Supreme Court in *Sudamcharan Dash* v. *State of Orissa*.[7]

An interesting question as to the impact of not giving effect to anticipatory bail grated to a person arose in *Santosh Kumar Moharana @ Dilip Moharana*.[8] In this case the petitioner was granted anticipatory bail in a case under sections 381,411,34 IPC by the Orissa High Court. During investigation there was no attempt to arrest him. However, after the completion of investigation, the police submitted a report describing him an absconder. The accused approached the high court invoking inherent jurisdiction seeking to expunge the description as absconder and to quash to non-bailable warrant issued by the trial court. The question before the court was whether a person can be declared an absconder and whether non-bailable warrant can be issued against a person who is under the constructive custody of the court. The court answered the questions in the negative and granted the reliefs. It further ordered that the counsel of the state should be careful in communicating the orders of the court to the police.

In *Basheer* v. *S.I. of Police, Kasaragod* [9] the petitioners were granted bail under section 439 (2) in a case under a bailable offence. Later when the investigation was completed it was found that the offence alleged to have been committed by them was a non-bailable offence. The question was whether the police could arrest them for the non-bailable offence when the order under section 439 (2) was in operation. It was held that the police could arrest them for the non-bailable offence.

An order for release on bail under section 167 (2) proviso (a) Cr PC is not an order on merits but an order on default of the prosecuting agency. Such an order could be nullified for special reasons after the default has been cured. The accused cannot therefore claim any special right to remain on bail. If the investigation reveals that the accused had committed a serious offence and charge sheet is filed, the bail granted under section 167 (2) proviso (a) could be cancelled on an application by the prosecuting agency.[10]

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6 (2014) 1 SCC (Cri) 768.

7 (2014) 1 SCC (Cri) 760.

8 (2014) Cri LJ 333 (Ori).

9 (2014) Cri LJ 137 (Ker).

10 *Abdul Basit @ Raju* v. *Mohd. Abdul Khader* (2014) 10 SCC 754.

Investigation

Some important issues on investigation have been discussed by the courts in 2014.

The role of the magistrate in the context of investigation into criminal case has come for examination in *Jayveer Singh* v. *State of UP.*[11] It was ruled that the magistrate has got the power to treat an application under section 156 (3) of a complaint if it comes to the conclusion that there is no necessity of a police investigation. In fact when an application under section 156 (3) is rejected that remedy is filing of a private complaint.

The question that arose for decision in *Amitbhai Anilchandra Shah* v. *CBI* [12] was whether the FIR registered separately for the conduct of investigation which is part of investigation in the first case could be sustained. The court quashed the second FIR and directed that the charge sheet filed in the second FIR be treated as supplementary charge sheet in the first FIR.

The Supreme Court reasoned that to determine whether different offences ought to be treated as part of the same transaction, the consequence test laid down in *C. Muniappa*,[13] may be taken aid of. The said test prescribes that if an offence forming part of the second FIR arises as a consequence of the offence alleged in the first FIR then the offences covered by both the FIRs are the same, and, accordingly, the second FIR will be impermissible in law. In other words, the offence covered in both the FIRs shall have to be treated as a part of the first FIR. Further, merely because two separate complaints had been lodged did not mean that they could not be clubbed together and one charge sheet could not be filed.[14]

The question whether it is necessary for the Supreme Court to monitor the progress of a case when the charge sheets have been submitted and the trial commenced, arose in *Sushila Devi* v. *State of Rajasthan.*[15] The court answered the question in the negative as the trial in the competent court had commenced.

The delay in investigation of a case involving the advocates and in constituting a Special Investigation Team by the State Government of Karnataka made the Supreme Court to entrust the investigation with the CBI in *Advocate Association, Bangalore* v. *Union of India.*[16]

The power of senior police officers to act as a police officer in charge of the police station under section 173(2) Cr PC came to be adverted to in *State of Bihar* v. *Lalu Singh.*[17] In this case, the case first handled by the station house

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11 (2014) Cri LJ 2282 (All).

12 (2014) 1 SCC (Cri.) 309.

13 (2010) 9 SCC 567.

14 (2014) 1 SCC (Cri) 309.

15 (2014) 1 SCC (Cri) 262.

16 (2014) 1 SCC (Cri) 355.

17 (2014) 1 SCC (Cri) 499.

officer (SHO) was ordered to be transferred to CID before he could submit his report under section 173 (2). This was held right by the Supreme Court since in view of section 36 of the code, police officers superior in rank to an officer in charge of the police station throughout the local area have been conferred with the authority to exercise the same power as that of officer in charge of police station.

The Supreme Court has had an occasion to reiterate, involving sections11, 12, 17, 18, 24, 157 and 159 of Cr PC, the responsibility of the trial judge in ensuring procurement of evidence. The court in *Josinder Yadav* v. *State of Bihar,*[18] observed thus:[19]

> We must note that this is the third case which this court has noticed in a short span of two months where, in a case of suspected poisoning viscera report is not brought on record. We express our extreme displeasure about the way in which such serious cases are dealt with. We wonder whether these lapses are the result of inadvertence or they are a calculated move to frustrate the prosecution. Thought the FSL report is not mandatory in all cases, in cases where poisoning is suspected, it would be advisable and in the interest of justice to ensure that the viscera is sent to the FSL and the FSL report is obtained.

The investigation officer (IO), the prosecutor and the court must work in sync and ensure that the guilty are punished by bringing on record adequate credible legal evidence. If the IO stumbles, the prosecutor must pull him up and take necessary steps to rectify the lacunae. The criminal court must be alert, it must oversee their actions and, in cases it suspects foul play it must use its vast powers and frustrate any attempt to set at naught a genuine prosecution. The court found it necessary to issue directions in the matter. The court went on: [20]

> …[I]n cases where poisoning is suspected immediately after the post-mortem the viscera should be sent to the FSL. The prosecuting agencies should ensure that viscera is, in fact, sent to the FSL for examination and the FSL should ensure that the viscera is examined immediately and report is sent to the Investigation Agencies/Courts post haste. If the viscera report is not received, the court concerned must ask for an explanation and must summon the officer concerned of the FSL to give an explanation as to why the viscera report is not forwarded to the Investigation Agency/Court. The Criminal Court should insure that it is brought on record.

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18 (2014) 2 SCC (Cri) 255.

19 *Id*. at 265.

20 *Id.* at 265.

The importance and relevance of scientific evidence came to be reiterated by the Supreme Court in *Dharam Deo Yadav* v. *State of UP*,[21] in which the crime of murder of a foreign woman was proved with the help of super imposition of her skeleton and DNA test. The suspect's statement with regard to the crime under section 8 of Evidence Act, 1896 was also relied upon by the Supreme Court which essayed o the relevance of scientific evidence thus: [22]

> The Criminal Justice System in the country is at cross-roads. Many a times, reliable, trust-worthy credible witnesses to the crime seldom come forward to depose before the court and even the hardened criminals get away from the clutches of law. Even the available witnesses for the prosecution turn hostile due to intimidation, fear and host of other reasons. The Investigation Agency has therefore to look for other ways and means to improve the quality of investigation, which can only be through the collection of scientific evidence. In this age of science we have to build legal foundation that is sound in science as well as in law.

Lamenting on the helplessness of judges in getting evidence under the present system, the Supreme Court in *State of Gujarat* v. *Kushanbhai*[23] issued instructions the gist of which is as follows:[24]

i. It is for the prosecution to oversee investigation's adequacy of evidence or to get further investigations done. There are two purposes: only persons against whom there is enough evidence will have to suffer the rigours of prosecution.

ii. By following the procedure, in most criminal cases, the agencies concerned will be able to successfully establish the guilt of the accused.

iii. A Committee of senior officers of police and prosecution agencies to review acquitted cases to find out the reasons for acquittal. There should be training with the help of case law and cases pending.

iv. There should be training within six months. Then there would be no complaint of ignorance. If still they go wrong departmental actions may be taken against them.

v. The lapses should be found out and the culprit identified. They should be proceeded against.

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21 (2014) 2 SCC (Cri) 626.

22 *Id.* at 641.

23 (2014) 2 SCC (Cri) 457.

24 *Ibid.*

vi. A copy of this circular should go to all states/UTs in the present case there was no attempt to collect necessary evidence.

In an interesting case where a complaint made by a party against another was processed by the police officer and came to be proved false. The person complained against brought an action against the police officer under section193 IPC. The court found that section195 stipulates complaint to be for giving false evidence and section 195 bars complaint under section 193 from a person other than one authorized by a court. The Supreme Court ruled that the high court should have this power.[25] The case was remitted to the high court and declared:[26]

> The High Court being constitutional court invested with the powers of superintendence over all courts within the territory over which the High Court exercises its jurisdiction in our view, is certainly a court which can exercise the jurisdiction under section 195 (1). In the absence of any specific constitutional limitations or prescription on the exercise of such powers the High Courts may exercise such powers either on an application made to it or suo moto whenever the interest of justice demands.

In a horrible case[27] of murder of a lady the state functionaries were non-active. A law student took up the issue and moved the Supreme Court seeking further investigation by CBI and other reliefs. The court ruled thus:[28]

> …[F]urther investigation of a criminal case after the charge sheet has been filed in a competent court may affect the jurisdiction of the competent court under section 173 (8) of the code of Cr PC. Hence it is imperative that the said power, which, though, will always rest in a constitutional court, should be exercised only in situations befitting, judges on the touchstone of high public interest and need to maintain Rule of Law. Only constitutional court can order reinvestigation by CBI after charge sheet has been filed. (Emphasis added)

Having regard to the international documents like Universal Declaration of Human Rights (UDHR), United Nations Code of Conduct for law enforcement Officers, Minnesota Protocol, *etc.*, the Supreme Court laid down[29] the following guidelines for dealing with investigation of encounter cases:[30]

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25 *Perumal* v. *Janaki* (2014) 2 SCC (Cri) 591.

26 *Id.* at 599.

27 *Sudipta Lenka* v. *State of Orissa* (2014) 3 SCC (Cri) 428.

28 *Id*. at 436.

29 *People's Union for Civil Liberties* v. *State of Maharashtra* (2014) 10 SCC 635.

30 *Id.* at 655-658.

Whenever the police is in receipt of intelligence or tip off regarding criminal movements or activities pertaining to commission of grave criminal offence, it shall be reduced into writing in some form (preferably into case diary) or in some electronic form. Such recording need not reveal details of the suspect or the location to which the party headed. If such intelligence or tipoff is received by a higher authority the same may be noted in some form without revealing details of the suspect or the location

If pursuant to the tipoff or intelligence as above encounter takes place and fire arm is used by the police party and as a result of that death occurs, an FIR to that effect shall be registered and the same shall be forwarded to the court under section 157 of the code without any delay. While forwarding the report under section 157, the procedure prescribed under section 158 shall be followed.

An independent investigation into the incident/encounter shall be conducted by the CID or police team of another police station under the supervision of a senior officer (at least a level above the head of the police party engaged in the encounter.) The team conducting the investigation shall at a minimum seek, a) to identify the victim, colour photographs of the victim should be taken; b) to recover and preserve evidentiary material including blood stained earth, hair, fibres, *etc*. related to death; c) to identify scene witnesses, with complete names, addresses and telephone numbers and obtain the statements of police personnel involved concerning death; d) to determine the cause, manner, location (including preparation of rough sketch of topography of the scene and, if possible photo/ video of the scene and any physical evidence) and time of death as well as any pattern or practice that may have brought about death; e) it must ensured that intact finger print of deceased are sent for chemical analysis; f) post-mortem must be conducted by two doctors in the district hospital, one of them, as far as possible, should be in charge/head of the district hospital, post-mortem shall be video graphed and preserved; g) any evidence of weapons, such as guns projectiles, bullets, catridges cases should be taken and preserved; h) the cause of death should be found out whether it was natural death, accidental death, suicide or homicide

A magisterial inquiry under section 176 of the code must invariably be held in all cases of death which occur in the course of police firing and a report thereof must be sent to the Judicial Magistrate having jurisdiction u/s. 190 of the code.

The involvement of NHRC is not necessary unless there are serious doubts about independent and impartial investigation. However, the information about the incident without any delay must be sent to NHRC or the SHRC, as the case may be.

The injured criminal/victim should be provided medical aid and his/her statement recorded by magistrate or medical officer with certificate of merit.

It should be ensured that there is no delay in sending FIR, diary entries/panchanama, sketch, *etc*. to the court.

After full investigation into the incident, the report should be sent to the competent court under section 173 of the code. The trial pursuant to the charge sheet submitted by the I.O. must be concluded expeditiously.

In the event of death the next of kin of the alleged criminal/victim must be informed at the earliest.

Six monthly statements of all cases where deaths have occurred in police firing must be sent to NHRC by DGPs. It must be ensured that the six-monthly statements reach NHRC by 15th day of January and July respectively. The statement must be sent in the following format along with post-mortem inquest and wherever available the inquiry report.

(i) Date and place of occurrence

(ii) Police station/district

(iii) Circumstances leading to death

  a. Self defence in encounter

  b. in the course of dispersal of unlawful assembly

  c. in the course of effecting arrest

  d. Any other circumstances

(iv) Brief facts of the case

(v) Criminal case number

(vi) Investigation Agency

(vii) Findings of the magisterial inquiry by senior police officer

a. disclosing in particular names and designations of police officials, if found responsible for the death, and

b. whether use of force was justified and action taken was lawful.

If on the conclusion of investigation the materials/ evidence having come on record show that death had occurred by use of fire arm amounting to offence under IPC, disciplinary action against such officer must be promptly initiated and he be placed under suspension.

As regards dependants of the victims who suffered death in a police encounter, the scheme provided under section 357 A must be applied.

The police officers concerned must surrender his/her weapons for forensic and ballistic analysis, including any other material, as investigated by the investigating team, subject to the rights under Article 20 of the Constitution.

An intimation about the incident must also be sent to the police officer's family and should the family needs services of a lawyer / counselling same must be offered.

No out of turn promotion or instant gallantry awards shall be bestowed on the officers concerned soon after the occurrence. It must be ensured at all cost that such rewards are given / recommended only when the gallantry of the officers concerned is established beyond doubt.

If the family of the victim finds that the above procedure has not been followed or there exists a pattern of abuse or lack of independent investigation or impartiality by any of the functionaries as above mentioned, it may make a complaint to the sessions Judge having territorial jurisdiction over the place of incident. Upon such complaint being made, the sessions Judge concerned shall look into the complaints and address the grievance raised therein.

The court declared that these guidelines shall have the force of law under article 141.The Supreme Court in another case refused to entrust the investigation with the CBI saying that it is a very serious power to be exercised sparingly.[31]

Search and seizure

Matters of official secrets are very sensitive and require immediate action. In these circumstances merely because police witnesses alone have spoken about search and seizure of documents from person suspected of spying merely because the independent witnesses have not supported it or turned hostile, and merely because warrant was not obtained, version of police witnesses cannot be disbelieved.[32]

Prosecution

Sanction to prosecute under section 197 Cr PC is a very important provision enabling the trial court to decide whether the accused should be prosecuted. In *State of Maharashtra through CBI* v. *Mahesh Jain*[33] the Supreme Court found that the trial court's refusal to prosecute was based not only on the ground of defect of sanction order but also on other defects. However, the high court's order of approving the trial court's order was found to be not proper by the Supreme Court. It remanded the case to the high court which has powers co-extensive with those of the trial court.

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31 *K. Saravanan Karuppa Swamy* v. *T.N.* (2014) 10 SCC 406.

32 *Saif Mohammed* v. *State of Rajasthan* (2014)1 SCC (Cri) 503.

33 (2014) 1 SCC (Cri) 515.

The court ventured to identify the principles thus:[34]

i. It is incumbent on prosecution to prove that the valid sanction has been granted by the sanctioning authority after being satisfied that a case for sanction has been made out.

ii. The sanction order may expressly show that the sanctioning authority has perused the material placed before it and after consideration of the circumstances, has granted sanction for prosecution.

iii. The prosecution may prove by adducing the evidence that the material was placed before the sanctioning authority and its satisfaction was arrived at upon perusal of material placed before it.

iv. Grant of sanction is only an administration function and the sanctioning authority is required to prima facie reach the satisfaction that relevant facts would constitute the offence.

v. The adequacy of material placed before the sanctioning authority cannot be gone into by the court as it does not sit in appeal over the sanction order.

vi. If the sanctioning authority has perused all the materials placed before it and some of them have not been proved that would not vitiate the order of sanction.

vii. The order of sanction is a prerequisite as it is intended to provide a safeguard to a public servant against frivolous and vexatious litigants but simultaneously an order of sanction should not be construed in a pedantic manner and there should not be a hyper technical approach to test its vitality.

With regard to the role of public prosecutor the judiciary's consistent stand has been that the decision to withdraw prosecution under section 321 should be taken by the public prosecutor himself. He is not to be influenced /guided by the opinion of the government. In other words, he is not a post office. His decision has to be to subserve public interest as spelt out in *Shronandan Paswan* v. *State of Bihar.*[35] The court also has to grant permission not in a mechanical way. These came to be reiterated by the Supreme Court in *Bairam Muralidhar* v. *State of A.P.*[36]

In *Abdul Karim* v. *State of Karnataka*,[37] the Supreme Court emphasized its position and it came to be reiterated in this decision. It is worth quoting its views:

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34 *Id*. at 520.

35 (1987) 1 SCC 288.

36 (2014) 10 SCC 380.

37 (2008) 8 SCC 710.

> The law, therefore, is that though the Govt. may have ordered, directed or asked a Public Prosecutor to withdraw from a prosecution, it is for the Public Prosecutor to apply his mind to all the relevant material and, in good faith to be satisfied thereon that the public interest will be served by his withdrawal from the prosecution. In turn, the court has to be satisfied, after considering all that material, that the Public Prosecutor has applied his mind independently thereto that the Public Prosecutor acting in good faith, is of the opinion that his withdrawal will not stifle or thwart the process of law or can be manifest injustice.

These observations signify the court's upholding of the independence and impartiality enjoyed by the public prosecutor in the Indian criminal justice system.

Trial

The trial court has jurisdiction under section 243 (2) to refuse to summon a witness. But it has to record its reasons. When reasons are so recorded by the trial court, the High Court in exercise of its revisional jurisdiction under section 397 read with section 401 Cr PC, while taking a different view, must adduce its reasons in support of its opinion and how reasons given by trial court are not tenable.[38].

Both in *Nishant Aggarwal* v. *Kailash Kr. Sharma*[39] and *Devendra Kishanlal Dagalia* v. *Dwarkesh Diamonds Pvt. Ltd.*,[40] the interpretation given to section 138, NI Act given in *Bhaskaran*[41] came to be followed.

Trial procedure

The court also gave new directions for trial procedure keeping in view the provisions in the Cr PC. In *Dilip Sudhakar Pendse* v. *CBI*, [42] the question was whether the committal of the case involving offence not exclusively triable either the special judge or by the sessions but triable by the chief metropolitan magistrate cannot be committed to the sessions court. It was a case following under "any other case" under section 306 (5) (b) Cr PC. It was therefore to be made over to Chief Metropolitan Magistrate.

It is common knowledge that an acquittal recorded in a case cannot be converted into a conviction except by way of a retrial. In *Ganesha* v. *Sharanappa*,[43] Ganesha alone came to be convicted by the high court on revision in a case

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38 *CBI* v. *Trunday Alankus* (2014) 1 SCC (Cri) 182.

39 (2014) 1 SCC (Cri) 189.

40 (2014) 1 SCC (Cri) 800.

41 (1999) 7 SCC 510.

42 (2014) 1 SCC (Cri) 198.

43 (2014) 1 SCC (Cri) 8.

wherein all were acquitted by the lower court. The court refused to register conviction observing thus: [44]

> By way of abundant caution, we may herein observe that interference with the order of acquittal in revision is called for only in cases where there is manifest error of law or procedure and in those cases in which it is found that the order of acquittal suffers from glaring illegality resulting into miscarriage of justice. The High Court may also interfere in those cases of acquittal caused by shutting out the evidence which others ought to have been considered or where the material evidence which clinches the issue has been overlooked. In such an exceptional case the High Court in revision can set aside an order of acquittal but it cannot correct an order of acquittal into that of an order of conviction. The only course left to the High Court in such exceptional cases is to order retrial.

In the instant case retrial was not ordered because of distance of time.

The engagement of Public Prosecutor has impact on the delays in completing trials. In *J. Jayalalitha* v. *State of Karnataka*,[45] the attempt of the Karnataka government to change the public prosecutor was objected to by the petitioner and it was sustained by the Supreme Court. The court also opined that the state should consider extending the term of the retiring trial judge so that the trial could be conducted smoothly and expeditiously.

In a case involving section 504 IPC, the Supreme Court declared that it is not the law that a complainant should verbatim reproduce each word or words capable of provoking the other person to commit any other offence. It was also mentioned in *Fiona Shrikhende* v. *State of Maharashtra*,[46] that the scope of inquiry under section 202 Cr PC is extremely limited in the sense that the magistrate at this stage is expected to examine prima facie the truth or falsehood of the allegations made in the complaint.

The constitutional implications of the application of section 319 came to be examined by the Supreme Court in *Vikas* v. *State of Rajasthan*.[47] The petitioner in this case came to be ordered by a non-bailable warrant at the first instance itself by the trial court. The High Court also approved the act of the trial court. The Supreme Court ordered that he need be issued with a summons. The court observed thus:[48]

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44 *Id* at 11.

45 (2014) 1 SCC (Cri) 814.

46 (2014) 1 SCC (Cri) 715.

47 (2014) 2 SCC (Cri) 172.

48 *Id.* at 175.

> The issuance of non-bailable warrant in the first instance without using the other tools of summons and non-bailable warrant to secure attendance of such a person would impair the personal liberty guaranteed to every citizen under the constitution. This position is settled in *Inder Mohan Goswami,* (2007) 13 SCC 1 and *Radhuransh Dewanchand Bhasin* (2012) 9 SCC 791

In *Hardeep Singh* v. *State of Punjab*,[49] again speaking about the application of section 319, it has been ruled by the Supreme Court that evidence collected during the inquiry could be acted upon to summon additional accused under section 319. In other words, it need not be evidence collected after cross-examination.

In *Dharampal Singh* v. *State of Haryana*,[50] it has been ruled that evidence collected during investigation could be acted upon to send up accused to session court under section 193 Cr PC. The sessions court then can act upon section 209 as if it is evidence collected for the purpose of trial.

In a case[51] where the high court ordered to separate the police and complaint case and to commit the complaint case to the sessions court so that he can summon additional accused under section 319, the magistrate misunderstood this order and issued summons. On revision by the appellant this order was set aside by the sessions court. The complainant then put revision in high court which was allowed. The magistrate's order for summoning was approved. The Supreme Court disapproved the high court's order and restored the order of the sessions court.

The request of the wife of the deceased to summon a person as an accused under section 319 on the ground that the deceased mentioned his name in his diary to suspect him in case of the deceased's death came to be turned down by the court since the IO had no evidence to suspect him.[52] All the courts including the Supreme Court did not support the prayer of the wife as there was no evidence.

Considerable power of the trial court under section 216 Cr PC came to be adverted to by the Supreme Court in *CBI* v. *Karimulla Osan Khan*.[53] Section 216 gives tremendous power to the trial court, that is, even after the completion of evidence, argument heard, and judgment reserved it can alter and add any charge subject to the conditions mentioned therein. The expression "at any time" and before "the judgment is pronounced" would indicate that the power is very wide and can be exercised, in appropriate cases, in the interest of justice, but at the same time the courts should also see that its orders would not cause any prejudice to the accused.

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49 (2014) 2 SCC (Cri) 86.

50 (2014) 3 SCC 306.

51 *Sujoy Kr Chadha* v. *Damayanti Majhd* (2014) 2 SCC (Cri) 644.

52 *Babu Bhai Bhimabhai Bokiriya* v. *State of Gujarat* (2014) 2 SCC (Cri) 644.

53 (2014) 3 SCC (Cri) 437.

The High Court of Guahati in *Jagbar Singh*,[54] ruled that the court has to show reasons for its action while passing an order for discharge at the stage of framing charge, it is incumbent on the court to give reasons to justify discharge of accused. Furnishing of reasons could disclose application of mind and would also be the live link or the nexus between such application of mind and the ultimate decision of discharge.

It has been held that an accused after having been granted pardon under section 306 Cr PC ceases to be an accused. He can be examined as a witness. Privileges would continue till he abides by the condition of disclosing the truth. It has also been emphasized by the Supreme Court in *CBI* v. *Ashok Kumar Aggarwal*,[55] that making a person an approver is a judicial act.

An accused either a public servant or a non-public servant, who has been charged for an offence under section 3(1) of the Prevention of Corruption Act, 1988 could also be charged for an offence under IPC. In such an event the special judge has the jurisdiction to try such offences against the public servant as well as against a non public servant.[56]

In several cases[57] tried under section 138 Negotiable Instrument Act, 1881(hereinafter NI, Act) the accused came to be acquitted. It was noticed that in these cases the magistrate after a stage of trial came to be replaced by other magistrates and the successor magistrates tried summarily under section145 of the Evidence Act, 1872 recorded by their predecessors and acquitted them. The successor magistrates should not have relied upon the evidence recorded by their predecessors in view of the bar under section 326 (3). The high court allowed the appeal and remanded the cases for *de novo* trial. The Supreme Court did not agree with the high court and issued instructions for future guidance:[58]

i. All the subordinate courts should make an endevour to expedite the hearing of cases in a time bound manner which in turn restore the confidence of the common man in the justice delivery system. When law expects to be done within prescribed time limit some efforts are required to be made to obey the mandate of law.

ii. The magistrate has the discretion under section 143 either to follow a summary trial or summons trial. In case the magistrate wants to conduct a summary trial, he should record the reasons after hearing the parties and proceed with the trial in the manner provided under the second proviso to section143. Such reasons should be necessarily recorded by the trial court so that further litigation arranging the mode of trial can be avoided.

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54 (2014) Cri LJ 507(Gau).See also *State of T. N* v. *V N Suresh Rajan* (2014) 3 SCC (Cri) 529.

55 (2014) 3 SCC (Cri) 634.

56 *CBI* v. *Jitender Singh* (2014) 3 SCC (Cri) 512.

57 *J V Baharuni* v. *State of Gujarat* (2014) 10 SCC 494.

58 *Id.* at 520.

iii. The Judicial Magistrate should make all possible attempts to encourage compounding of offences at an early stage of litigation. In a litigation under Negotiable Instruments Act the compensating aspect of remedy must be given priority over the punitive aspect.

iv. All the subordinate court should follow the directives issued by the Supreme Court issued in several cases scrupulously for effective conduct of trials and speedy disposal of case.

v. Remitting the matter for de novo trial should be exercised as a last resort and should be used sparingly when there is grave miscarriage of justice in the light of illegality, irregularity, incompetence or any defect which cannot be cured at an appellate stage. The appellate court should be very cautious and exercise discretion judiciously while remitting the matters for de novo trial.

vi. While examining the nature of trial conducted by the trial court for the purpose of determining whether it was summary trial or summons trial, the primary and prominent test to be adopted by the appellate court should be whether it was only the substance of the evidence that was recorded or whether the complete record of the deposition of the witnesses in their chief examination, cross-examination and re-examination in verbatim was faithfully placed on record. The appellate court has to go through each and every minute details of the trial court record and then examine the same independently and thoroughly to reach at a just and reasonable conclusion.

Sentencing

The Supreme Court in a case[59] involving the offence under section 304 B IPC ventured to identify the sentencing policy by way of a detailed examination of the punishments provided for various offences in the IPC. Taking the clue from the discussion in connection with imposition of death penalty the Supreme Court found that the circumstances connected with "criminal test" and "crime test" are mutually irreconcilable. They cannot be arranged in the form of a balance sheet as observed in *Sangeet* case.[60] But it is the cumulative effect of the two sets of different circumstances that has to be kept in mind while rendering the sentencing decision.

The Supreme Court categorically ruled that wherever the IPC or other statute have provided for a minimum sentence for any offence, to that extent, the power of remission or commutation has to be read as restricted, otherwise the whole purpose of punishment will be defeated and it will be a mockery of justice. In *State of Rajasthan* v. *Jamilkhan,*[61] involving rape and murder of a 5 year old

59 *Sunil Dutt Sharma* v. *State (Govt. of NCT of Delhi)* (2014) 4 SCC 375.

60 (2013) 2 SCC 452.

61 (2014) 1 SCC (Cri) 411.

child the offender was awarded punishment in such a manner that even after remission of a sentence he might be constrained to start the term of imprisonment awarded for the other offences.

In *Sujith Biswas* v. *State of Assam*,[62] the appellant was sentenced to death by the trial court. The high court on appeal converted it into life imprisonment till death. The Supreme Court however, found that the only point connecting him with the case was the finding of blood in his underwear which matched with the blood of the deceased child. But this was not put to the accused during the examination under section 313 Cr PC. The Supreme Court therefore ordered his release.

In *Manoj @ Panu* v. *State of Haryana*,[63] the Supreme Court under section 31 Cr PC converted the consecutive sentencing into concurrent sentencing. The court noted that the accused was 18 years at the time of shooting. It also noted that the court in *State of Punjab* v. *Madan Lal*, [64] and *Chatar Singh* v. *State of MP* [65] holding that consecutive sentences for several offences cannot be more than 14 years.

There have been some decisions in which non-remittable imprisonment for 20 years have been awarded. The Supreme Court resorted[66] to a very detailed examination of its jurisdiction to examine and decide mercy petitions under article 72 and 161of the Constitution of India and ruled that it is to protect the convict that this jurisdiction is exercised. Constituent Assembly debates or the earlier precedents arguably do not support the court's assertions though. The court asserts: [67]

> It is well established that exercising of powers under Art.72/161 by the President or the Governor is a constitutional obligation and not a mere prerogative considering the high status of office, the constitutional framers did not stipulate any outer time limit for disposing of the mercy petitions under the said Articles, which means it should be decided within a reasonable time. However, where the delay caused in disposing of the mercy petition is seen to be unreasonable unexplained and exorbitant it is the duty of this court to step in and consider this aspect. Right to seek for mercy under Art. 72/161 of the constitution right and not at the discretion or whims of the executive. Every constitutional duty must be fulfilled with due care and diligence, otherwise judicial interference is the command of the constitution for upholding its values.

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62 (2014) 1 SCC (Cri) 677.

63 (2014) 1 SCC (Cri) 763.

64 (2009) 5 SCC 238.

65 (2006) 12 SCC 37.

66 *Shatrughan Chawhans* v. *Union of India* (2014) 3 SCC 1

67 *Id.* at 91.

> Remember, retribution has no constitutional value in our largest democratic country. In India, even an accused has a de facto protection under the constitution and it is the court's duty to shield and protect the same. Therefore, we make it clear that when the judiciary interferes in such matters, it does not interfere with the power exercised under Art.72/161 but only to uphold the de facto protection provided by the constitution to every convict including death convict.

The court framed guidelines for dealing with mercy petitions. As regards the sentencing policy, the court's observations are not clear. The court's observations do not signify its sentencing policy. It in fact offers justifications for its interference.

There has been an attempt by the Supreme Court to explain its approach towards sentencing particularly in the context of death penalty. In *Ashok Debarma* v. *Achak Debbarma*,[68] there was an attack on a linguistic minority and out of eleven accused five were charge sheeted. Out of these five three were acquitted. One was absconding and the appellant alone came to be convicted. In such a situation the court has doubt about the truth and it entertained "residual doubt". Its reasoning becomes clear from its observations: [69]

> In *California* v. *Brown*, 479 US 538 (1987) and other cases, the US court took the view, "residual doubt" is not a fact about the defendant or the circumstances of the crime, but a lingering uncertainty about facts, a state of mind that exists somewhere between "beyond reasonable doubt" and "absolute certainty". The petitioner's "residual doubt" claim is that the states must permit capital sentencing bodies to demand proof of guilt to "an absolute certainty" before imposing the death penalty. Nothing in our cases mandates the imposition of this heightened burden of proof at capital sentencing.
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> We also in this country as already indicated expect the prosecution to prove its case beyond reasonable doubt, for not without "absolute certainty". But in between "absolute doubt" and "absolute certainty" or decision maker's mind may wonder, possibly in a given case he may go for "absolute liability" so as to award death penalty. Short of that he may go for "beyond reasonable doubt". Suffice it to say, so far as the present case is concerned, we entertained a lingering doubt as to whether the appellant alone could have executed the crime single-handedly especially when the prosecution itself says

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68 (2014) 2 SCC (Cri) 417.

69 *Id.* 432-433.

> that it was the handiwork of a large group of a large group of people. If that be so, in our view, the crime perpetrated by a group of people in an extremely brutal, grotesque and dastardly manner, could not have been thrown upon the appellant alone without charge sheeting the other group of persons numbering around 35. All the elements test as well as the residual doubt test in a given case, may favour the accused, as a mitigating factor.

In fact the court admits that there is no clear cut policy for awarding death penalty. Nor could it be clearly laid down. But the only safeguard is to provide "special reasons" not merely "reasons" for awarding death sentence. Thus the observance of "crime test", "criminal test", rarest of rare test and 'special reasons' could allay fears of uncertainty with regard to the sentencing policy.

The accused was awarded non-remittable imprisonment for 20 years in addition to the period undergone.

In *Raj Kumar* v. *State of MP* [70] also the court awarded a non-remittable 35 years' of imprisonment to the appellant convicted of rape and murder of a 14 year old girl. It has also been reminded that the court should not close its eyes to the agony and anguish of the victim and eventually the cry of the society in fixing an appropriate sentence.[71] This observation signifies the court's concern for balancing in this area.

Appeal

What is understood by court of appeal in the context of high court has come to be discussed by the Supreme Court in *Majjal* v. *State of Haryana*[72] wherein the court observed: [73]

> It was necessary for the High Court to consider whether the trial court's assessment of the evidence and its opinion that the appellant must be convicted deserve to be confirmed. This exercise is necessary because the personal liberty of an accused is curtailed because of the conviction. The High Court must state its reasons why it is accepting its evidence as evidence. The High Court's concurrence with the trial court's view would be acceptable only if it is by reasons. In such supported appeals it is court of first appeal. Reasons cannot be cryptic. By this we do not mean that High Court is expected to write an unduly long treatise. The judgment may be short but it must reflect proper application of mind to vital evidence and important submissions which go to the roots of the matter. Since this exercise is not conducted by the High Court the appeal

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70 (2014) 2 SCC (Cri) 570.

71 *Sumer Singh* v. *Surajbhan Singh* (2014) 3 SCC (Cri) 184.

72 (2014) 1 SCC (Cri) 472

73 *Id.* at 414.

> deserves to be remanded for a fresh hearing after setting aside the impugned order.

The victim's right to appeal has been examined in *Parameshwar Mandal* v. *State of Bihar,*[74] in detail by the High Court of Patna. The court declared that it is an unqualified right under the proviso to section 372 of the code. Since the petitioner could not be taken as a victim in the circumstances of the case the court did not allow the appeal though it detailed the contours of this provision.

Quashing of proceedings

In a case involving civil disputes arising out of the parties' business transaction one party initiated multiple criminal proceedings. The courts below allowed these proceedings to continue even after it becoming clear that the complainant had been manipulating and suppressing facts from the court. The Supreme Court did quash the proceedings as it was an abuse of process of the court. The maxim, *Jure natural acquum est reminem cum alterius detriment et injuria fiery locupletiorem* (easy access to justice not to be used as a licence to file misconceived and frivolous petitions) came to be squarely applied in this case.[75]

In *Umesh Kumar* v. *State of AP,*[76] since there was material to sustain the allegations quashment of the proceedings was not done by the Supreme Court. The court ruled that the issue of *mala fides* loses its significance if there is substance in the allegation made in the complaint moved with malice.

The case in *Gopakumar Nair* v. *CBI*, [77] was refused to be quashed by the Supreme Court. It distinguished the cases in *Nikhil Merchant*[78] *Gian Singh.*[79] It was explained that neither *Nikhil Merchant* nor *Gian Singh* can be understood to mean that in a case where charges are framed for commission of non-compoundable offences or for criminal conspiracy to commit offence under the Prevention of Corruption Act, 1988 if the disputes between the parties are settled by the payment of amounts due; the criminal proceedings should invariably be quashed. The Supreme Court further explained: [80]

> …[T]he appellant has been charged with the offence of criminal conspiracy to commit the offence under section 13 (1) (d), Prevention of Corruption Act. He is also substantively charged under section 420 (compoundable with the leave of the court) and section 417 (non-compoundable). A careful consideration of the

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74 (2014) Cri LJ 1046 (Pat).

75 *Chandran Ratna Swamy* v. *K C Palani Swamy* (2014) 1 SCC (Cri) 447.

76 (2014) 1 SCC (Cri) 338.

77 (2014) 2 SCC (Cri) 853.

78 (2008) 9 SCC 677.

79 (2012) 10 SCC 303.

80 *Supra* note 77 at 858.

> case would indicate that unlike in Nikhil Merchant no conclusion can be reached that the substraction of the charges against appellant-accused in the present case is one of cheating nor are the facts are similar to those in *Narendra Lal Jain,* (2014) 5 SCC 364 where the accused was charged under section 120B read with section 420 IPC only. The offences are certainly more serious; they are not private in nature. The charge of conspiracy is to commit offences under the Preventive of Corruption Act. The accused has also been charged for the commission of the substantive offence under section 471 IPC. Though the amount due have been paid the same is under a private settlement between the parties unlike in Nikhil Merchant and Narendralal Jain where the compromise was a part of decree of the court. There is no acknowledgment on the part of the Bank of the exoneration of the criminal liability of the appellant accused unlike the terms of compromise decree in the aforesaid two charges

Compensation

The Supreme Court have had occasion to deal with a case of gang rape of a woman as punishment awarded to her by her community panchayat for having developed relations with a man belonging to another community.[81] The Supreme Court awarded compensation to the victim. The court noted that the panchayat violated the victim's freedom of choice of marriage under article 21 of the Constitution. The machinery and provisions of law to award compensation have been noted by the court.

In *Sudipta Lenka* v. *State of Orissa*,[82] the Supreme Court noted that a compensation of Rs. 10 Lakh has already been paid to the victim's parents.

Compounding of offences

In *Bharti* v. *State of Haryana*,[83] the parties were neighbours. The accused was convicted of offences under sections 354 and 451of IPC. When the offences were committed in 2000, section 354 was compoundable with the permission of the court under section 320 Cr PC. Though the affidavits to compound were filed in the court, both the sessions and the high court did not permit compounding as the offence of section304 was made non-compoundable in 2008. The Supreme Court permitted them to compound.

In *CBI, Bombay* v. *Narendra Lal Jain*,[84] the Supreme Court approved the quashing of non-compoundable offence under section 120 B of IPC by the high court under section 482 as there was closure of case with the bank as a result of finalization of the cases.

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81 (2014) 2 SCC (Cri) 437.

82 (2014) 3 SCC (Cri) 428.

83 (2014) 2 SCC (Cri) 236.

84 (2014) 5 SCC 364.

The conflicting approach of the court in dealing with quashments of proceedings in several cases involving serious offence like attempt to commit murder under section 307 IPC have been adverted to by the Supreme Court in *Narinder Singh* v. *State of Punjab.*[85] The court issued guidelines for the guidance of the high court in quashing criminal proceedings under section 482 in paragraphs 29 of its judgment. Generally, the court has pointed out that proceedings involving serious offences like murder, rape, *etc.*, should not be quashed. Offences of civil nature, commercial transactions family disputes, *etc.*, could be quashed. The high courts have to be meticulous in effecting quashing. Generally, if the compounding brings harmony the high court may quash the proceedings. High court may be liberal if the parties arrive at the agreement early.[86]

Since the agreement for compromise in *Narinder Singh* case was found acceptable the court approved and the quashment of the proceedings.

Cheques and criminal procedure

There have been several cases regarding various aspects of cheques under the sections in NI Act.

It has been held[87] that courts within whose jurisdiction cheque was presented and dishonoured also have jurisdiction to try offence under section 138 Negotiable Instruments Act. In this case the court reiterated the acts constituting offence under section 138. Ingredients of offence under section 138 are (i) drawing of cheque, (ii) presentation of cheque to bank, (iii) returning of cheque unpaid by drawer banks, (iv) giving notice in writing to drawer of cheque demanding payment of cheque amount and (v) failure of drawer to make payment within 15 days of receipt of notice.

In *Kamlesh Kumar* v. *State of Bihar*,[88] it was held that although the complainant had right to present the cheque for encashment a second time after its dishonour, the legal notice pursuant to second dishonour had to be issued within thirty days of the receipt of information as to second dishonour from bank which was not done. The court found that the conditions to make it an offence as spelt out in *MSR Leathers* v. *Palaniappan*,[89] have not been complied with. The three conditions under the proviso to section 138 are as follows: (1) The cheque ought to have been presented to the bank within a period of six months from the date on which it was drawn or within the period of its validity which is earlier, (2) The payee or the holder in due course of the cheque, as the case may be, ought to make a demand for the payment of the said amount of money, by giving a notice in writing to the drawer of the cheque,

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85 (2014) 3 SCC (Cri) 54.

86 *Ibid.*

87 *Escorts Ltd.* v. *Ram Mukharji* (2014) 1 SCC (Cri) 808.

88 (2014) 1 SCC 839.

89 (2013) 1 SCC 117.

within thirty days of the receipt of information by him from the Bank regarding the nature of the cheque as unpaid, (3) The drawer of such a cheque should have failed to make the payment of the said amount of money to the payee/or as the case may be to the holder in due course of the cheque within fifteen days of the receipt of the said notice.

On the Indian Bank Association's prayer for expeditious disposal of cases involving cheque the Supreme Court in *Indian Bank Association* v. *Union of India*,[90] issued the following directions and all the courts are advised to follow these:[91]

i. The Metropolitian Magistrate /JudicialMagistrate, on the day when the complaint under section 138 of the Act is presented, shall scrutinize the complaint and, if the complaint is accompanied by the affidavit and the affidavit and the documents, if any, are found to be in order, take cognizance and direct issuance of summons.

ii. The MetropolitianMagistrate/JudicialMagistrate should adopt a pragmatic and realistic approach while issuing summons. Summons must be properly addressed and sent by post as well as by e-mail address got from the complainant. The court in appropriate cases may take the assistance of the police or the nearby court to serve notice on the accused. For notice of appearance, a short date be fixed. If the summons is received back unreserved, immediate follow-up action be taken.

iii. The court may indicate in the summons that if the accused makes an application for compounding of offences at the first hearing of the case and, if such an application is made, the court may pass appropriate orders at the earliest.

iv. The court should direct the accused, when he appears to furnish a bail bond, to ensure his appearance during trial and ask him to take notice under section 251 Cr PC to enable him to enter his plea of defence and fix the case for defence evidence, unless an application is made by the accused under section 145(2) for remitting a witness for cross-examination.

v. The court concerned must ensure that examination-in-chief, cross examination and re-examination of the complainant must be conducted within three months of assigning the case. The court has the option of accepting affidavit of the witnesses instead of examining them in the court. The witness to the complainant and the accused must be available for cross-examination as and when there is direction to this effect by the court.

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90 (2014) 2 SCC (Cri) 652.

91 *Id.* at 653.

The limitation period under section 138 proviso (a) means six calendar months (as per section 3 (35) General Clauses Act, 1897) and month does not mean just a period of 30 days and the said period would commence from the day next when the cheque was drawn and will expire a day prior to the corresponding month and in case no such day falls in the corresponding month, the said period would expire at the end of the last day of the immediately previous month (as per section 9, General Clauses Act, 1897).

Thus as the cheque in the present case[92] was drawn on 31.12.2005, the six months period would begin from 1.1.2006 and would expire at the end of 30.6.2006 (because 31st day is not there in the month of June). Therefore, as the cheque was presented on 30.6.2006 it will be considered to have been validly presented within 6 months.

Reviewing its earlier rulings in *Bhaskaran* case,[93] the Supreme Court in *Dasarath Rup Singh Rathod* v. *State of Maharashtra*,[94] has laid down as follows, (T.S. Thakur J) more explicitly:[95]

> …[A]n offence under section138 is committed no sooner a cheque is drawn by the accused on an account being maintained by him in a bank for discharge of debt/liability is returned unpaid for insufficiency of funds or for the reason that the amount exceeds the arrangement made with the Bank.

Cognizance of offence is however forbidden under section 142 except upon a complaint in writing made by the payee within a period of one month from the date of cause of action accrues to such payee or holder under clause (c) of proviso to section 138.

The cause of action to file a complaint accrues to complainant/payee/holder of cheque in due course if

a) the dishonoured cheque is presented to the drawee bank within a period of six months from the date of its issue.

b) if the complainant has demanded the judgment of cheque amount within 30 days of receipt of information by him from the bank regarding the dishonour of the cheque, and

c) if the drawer has failed to pay the cheque amount within 15 days of receipt of such notice.

The fact constituting courses of action do not constitute the ingredients of the offence under section138 of the Act.

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92 See *Ramesh Chandra Ambalal Joshi* v. *State of Gujarat* (2014) 3 SCC (Cri) 542.

93 (1999) 7 SCC 510.

94 (2014) 3 SCC (Cri) 673.

95 *Id.* at 710-711.

The proviso to section138 simply postpones/defers institution of criminal proceedings and taking of cognizance by the court till such time cause of action in terms of clause (c) of the proviso accrues to the complainant.

Once the cause of action accrues to the complainant, the jurisdiction of the court to try the case will be determined by reference to the place where the cheque is dishonoured.

The general rule stipulated under section 177 Cr PC applies to cases under section138, Prosecutions in such cases, therefore be launched on against the drawee of cheque only before the court within whose jurisdiction the dishonour takes place except in situations where the offence of dishonour of cheque punishable under section 138 is committed along with other offences in a single transaction within the meaning of section 220 (1) read with section 184 of Cr PC or is covered by the provisions of section 183 (1) read with section 184 and 220 Cr PC.

Lok adalats

The objective of constitution of Lak Adalats is to have speedy resolution of the disputes through Lok Adalats with the advantage of cutting the cost of litigation and avoiding further appeals. The Lok Adalats can ensure speedy justice at low costs. Experience has shown that not only huge number of cases are settled through Lok Adalats, this system has definite advantages such as (1) speedy justice and saving from the lengthy court procedures (b) justice at no cost (c) solving the problem of backlog of cases and maintenance of cordial relations.[96]

Domestic violence

The following questions arose in *Juveria Abdul Majid Patni* v. *Alif Iqbal Manzoor* [97]

a) Whether divorce of the appellant (muslim woman) and the first respondent (husband) effected by a Mufti under Muslim Law had taken place on 9.5.2008?

b) Whether divorced woman can seek relief against her ex-husband under sections.18-23 of the Domestic Violence Act, 2005?

The Supreme Court answered the questions in the affirmative.

III CONCLUSION

The case law of 2014 signifies again the important role being played by the Supreme Court in implementing the various provisions of the code by supplementing them with 'guidelines'. It would enhance the effectiveness of the system if the legislature takes note of the guidelines and do the needful to make the system more effective.

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96 *State of MP* v. *Prateek Jain* (2014) 10 SCC 690.

97 (2014) 10 SCC 736.