



SHORTHAND INSTITUTE

SKILL TODAY | BETTER TOMORROW



Legal Dictation

for High Court



For English
Shorthand &
Steno Practice



DICTATION
PRACTICE



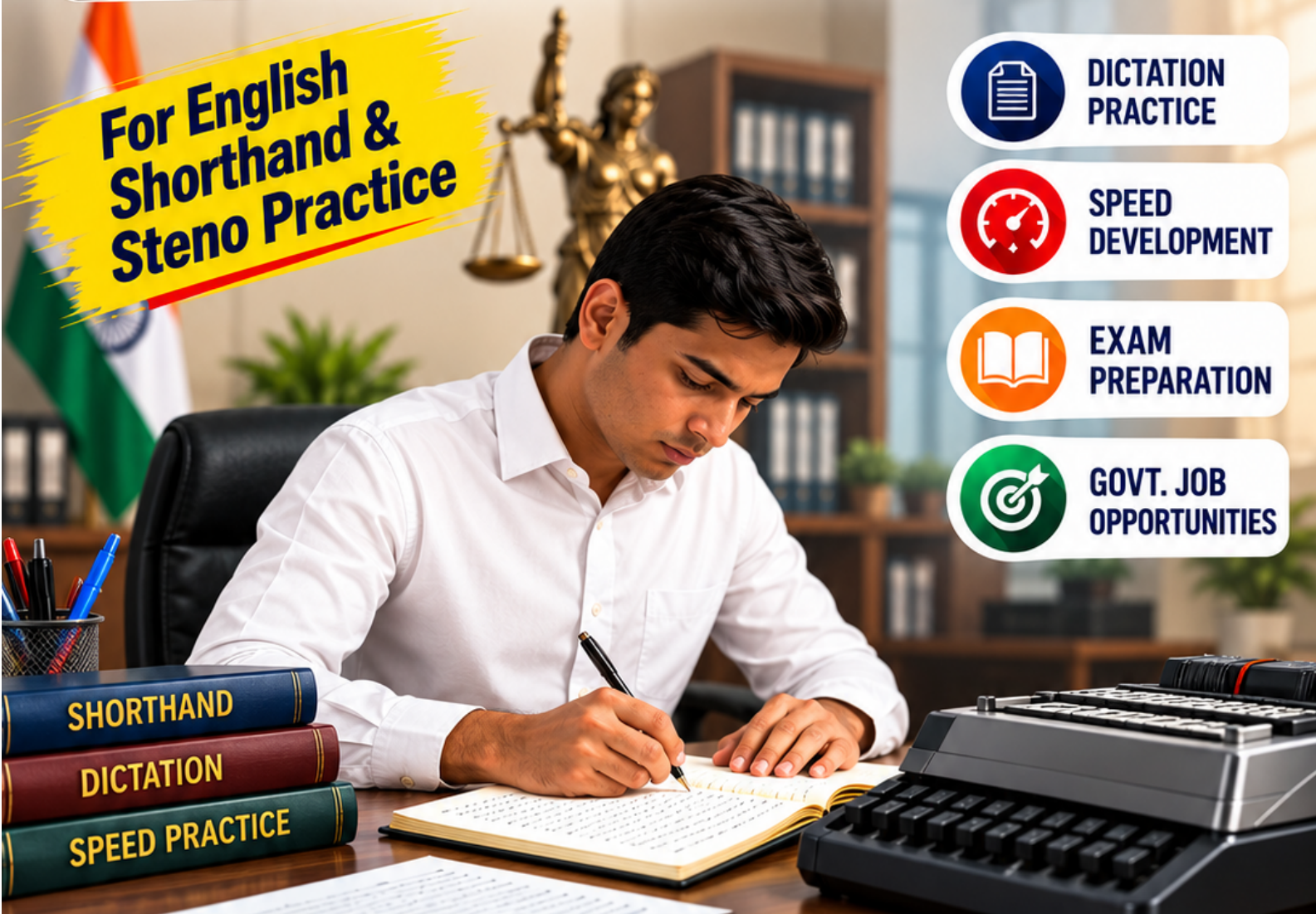
SPEED
DEVELOPMENT



EXAM
PREPARATION



GOVT. JOB
OPPORTUNITIES



+91 95167 44498



contact@shorthandinstitute.in



Shorthand Institute

Road, Nearby Suryanamaskar Tiraya,
Mela Ground, Thatipur, Gwalior, Madhya Pradesh

Shri Vivek Kundu Incharge Cyber Cell, Gurugram and statements of witnesses were recorded. After receiving the information regarding the occurrence, Inspector Amit Kumar Incharge Crime Branch Sector 40 Gurugram, apprehended the accused Mahipal along with revolver, Honda City Car bearing registration number and mobile phone of deceased Dhruv. The revolver was taken into possession through a memo. The personal search of accused was conducted and parcels of the recovered articles was prepared. From the Honda City Car, number plate, two mobile phones along with sims were recovered and after making separate parcels, the same were taken into police possession. Site plan of the place of recovery was prepared. The revolver was got inspected by fingerprint expert who lifted the chance print from the revolver and the same was taken into police possession through a memo. The sketch of the revolver was prepared. Swab gun powder from the hands of accused Mahipal was taken by scene of crime team and after inspecting the vehicle the marks of blood and the piece of vehicle marked with bullet were cut and separate parcels of the same were prepared and taken into police possession. On the same day, accused was arrested. On 14.10.2018, he was taken for medical examination. During medical examination, blood stained uniform of accused was handed over by the doctor to Inspector Amit Kumar which was taken into police possession. Witness Constable Kumar handed over an application to Inspector Amit Kumar which was taken into police possession by Inspector Amit Kumar. On 13.10.2018, on receiving information regarding death of Ms. Ritu wife of Krishankant Section 302 IPC was added. After taking the photographs of dead body, proceeding under Section 174 Cr.P.C. was conducted. Sub-Inspector Naresh Kumar got conducted the post-mortem of dead body. Thereafter, disclosure statement of accused Mahipal was recorded and his four days' police remand was obtained. ASI Baljeet took into police possession the video clips into the pendrive of the incident which was made by Rishi Gupta along with certificate under Section 65B. Statements of witnesses were recorded. On 14.10.2018, ACP Dharna Yadav took into possession the record regarding posting of accused Mahipal and record regarding revolver was also obtained from Armory. Statements of witnesses were recorded. On 15.10.2018 statement of eye-witness Hemant Kumar was recorded by Yashwant Singh, member of SIT and taken into police possession. The post-mortem report of deceased Ms. Ritu was taken into possession after converting the same into parcel by SI Naresh Kumar. 412

Supreme Court held that a woman cannot be held liable for offence of gang rape under Section 376(2)(g) of Indian Penal Code, 1860. The judgment was delivered by a two-Judge Bench consisting of Justice Arijit Pasayat and Justice SH Kapadia. The prosecutrix lodged a complaint alleging that she was returning home by the Utkal Express after attending a sports meet. On reaching Sagar Railway Station, she was approached by Bhanu Pratap Patel, who is the husband of the present appellant. Bhanu Pratap Patel told the prosecutrix that her father had sent him to pick her up from the station. As the prosecutrix was suffering from fever, she trusted him and accompanied him to his house. At his house, Bhanu Pratap Patel committed rape on the prosecutrix. During the act, the appellant (wife of the accused) arrived at the scene. The prosecutrix pleaded with the appellant to help her, but instead, the appellant slapped her, shut the door, and left the place of incident. Based on the complaint, an investigation was conducted, and a charge-sheet was filed. Bhanu Pratap Patel was charged under Sections 323 (voluntarily causing hurt) and 376 (rape) of the Indian Penal Code, 1860 (IPC). The appellant was charged under Sections 323 and 376(2)(g) of the IPC, the latter pertaining to gang rape. The appellant challenged the framing of the charge under Section 376(2)(g) IPC before the High Court, arguing that a woman cannot be charged with rape.

The High Court held that although a woman cannot herself commit rape, she can be charged under Explanation I to Section 376(2) IPC if she facilitates gang rape. The appellant's counsel argued that Explanation I to Section 376(2) IPC was inapplicable and a woman cannot be convicted for gang rape. The State, supporting the High Court's view, additionally submitted that even if Section 376(2)(g) is not applicable, the appellant can be charged for abetment. Section 375 of the IPC makes it clear that rape can only be committed by a man, as it specifically outlines circumstances in which a man may be said to commit rape. Section 376(2)(g) IPC provides for enhanced punishment in cases of gang rape, stating that whoever commits gang rape shall be punished. The explanation to Section 376(2) clarifies that all persons acting in furtherance of a common intention to rape are deemed to have committed gang rape, even if only one of them actually committed the physical act. 405

Supreme Court laid down when the proceedings can be quashed under Section 482 of the Criminal Procedure Code, 1973 (Cr.P.C.) if the parties have reached a settlement. The judgment was delivered by a three-Judge Bench consisting of Justice RM Lodha, Justice Anil R. Dave and Justice Sudhanshu Jyoti. Gian Singh was convicted under Sections 420 (cheating) and 120B (criminal conspiracy) of the Indian Penal Code, 1860 (IPC) by a Magistrate. While his appeal was pending before the Sessions Judge, Gian Singh filed an application for compounding the offence, which was directed to be considered along with the main appeal. Gian Singh filed a petition under Section 482 of the Criminal Procedure Code, 1973 (Cr.P.C.) for quashing the FIR on grounds of compounding the offence. The High Court dismissed the petition, leading to Gian Singh filing a Special Leave Petition before the Supreme Court. The two-Judge Bench hearing the Special Leave Petition doubted the correctness of three previous Supreme Court decisions that had indirectly permitted compounding of non-compoundable offences. The Bench noted that while Section 420 IPC (cheating) is compoundable with permission of the Court, Section 120B IPC (criminal conspiracy) is non-compoundable. The Bench expressed the view that something which cannot be done directly cannot be done indirectly, and non-compoundable offences should not be permitted to be compounded by the Court. The matter was referred to a larger Bench to reconsider the correctness of the three previous decisions. The case involved consideration of the relationship between Section 320 of the Code (which provides for compounding of certain offences) and Section 482 (which saves the inherent power of the High Court). The larger Bench was tasked with determining whether the High Court could use its inherent powers under Section 482 to quash criminal proceedings involving non-compoundable offences when parties have reached a settlement. The Court affirmed that the High Court's power to quash criminal proceedings under its inherent jurisdiction (Section 482) is distinct from the power of compounding offences under Section 320 of the Criminal Procedure Code. The Court held that inherent power, while broad in scope with no statutory limitation, must be exercised in accordance with two guidelines to secure the ends of justice or to prevent abuse of Court process. The Court emphasized that the decision to quash criminal proceedings based on settlement between parties must depend on the specific facts and circumstances of each case. The Court ruled that heinous and serious offences such as murder, rape and dacoity cannot be quashed. 413

The appellant is engaged in providing event management services which are undisputedly taxable under Section 65 appellant impugned order of the Finance Act, 1994 and the appellant is registered with the department and has been paying service tax. The appellant services are hired by the Indian Council for cultural relations under Ministry of External Affairs to manage its various events. The office of the Directorate General of Audit audited the records of appellant and found that the appellant had paid the service tax of while it had provided services aggregating to Rs.10,000 (including service tax) during this period. Audit, therefore, observed that service tax, was short paid. Accordingly, show-cause notices dated 03.08.2012, 02.04.2014 were issued to the appellant proposing to recover the short paid service tax aggregating and also proposing to impose penalties under the Sections 76, 77 of the Finance Act, 1994. These show-cause notices were adjudicated by the impugned order. Aggrieved, the present appeal is filed. As an event management agency, the appellant conceptualizes, consults, plans, coordinates and organizes events hosted by the client in the following manner. The client has the appellant only for conceptualization, planning and coordination of the event and separately has third party service providers, such as, transporters etc. The appellant receives only professional fees on which it has paid service tax which is not in dispute. The client requests the appellant to organize the complete event in which case the appellant approaches third party service providers and engages them as per the budget allocation and instructions given by the client. The appellant pays vendors and claims reimbursement of the cost of these vendors from the client along with utilization certificates duly certified by the auditors. The dispute in this case is with respect to the second type of contracts. According to the revenue, the appellant is providing a complete service and has to pay service tax on the entire amount including what has been paid by it to the third parties and is reimbursed by the client. According to the appellant, it is only providing the service of organizing the event and the amounts which it paid to third parties were only reimbursed by the client. Therefore, it was acting as a pure agent and no service tax can be levied on the amounts which it paid to third parties which have been reimbursed by the client. 395

Learned counsel for the appellant submits that it has been recorded in Paragraph 42 of the impugned order that the gross amount charged by the appellant includes both conceptualization fees and expenditures reimbursement which was held liable to service tax and by the impugned order. He submits that it is undisputed that the additional amounts which the appellant received were towards reimbursement of expenses paid by it towards third party as has been recorded correctly in Paragraph 42 of the impugned order. However, the Commissioner has not accepted the appellant's claim that it was acting as a pure agent for its clients in respect of such payments received as reimbursement on the ground that it had not fulfilled. He submits that their case is squarely covered by the judgment of Supreme Court and reimbursements of amounts which it received cannot be charged to service tax. On careful consideration of the suggestions given by the learned amicus curiae, this Court is of the view that in order to implement Sections 21B of the Hindu Marriage Act in their true letter and spirit all petitions under the Hindu Marriage Act should be accompanied by an affidavit of assets, income and expenditure of the petitioner. If the spouse claiming the maintenance is petitioner, application under Section 24 is filed along with the petition whereas if the spouse claiming maintenance is respondent, the application under Section 24 along with the affidavit of assets, income and expenditure of the respondent be filed within 30 days of the service of the notice. The response to the affidavit of assets, income and expenditure of the respondent be filed by the petitioner within two weeks and the trial Court should thereafter take up the application under Section 24 of the Hindu Marriage Act. With respect to Sections 25 and 27 of the Hindu Marriage Act, the well settled principles need to be followed. In view of the above facts and circumstances, the learned counsel appearing on behalf of the revisionist submitted that the impugned judgment is bad in law as the same was passed without considering the facts of the case and without perusing the documents/materials on record. It is, therefore, prayed that the judgment dated 27th November, 2017 passed by the learned Principal Judge be modified and the quantum of maintenance be enhanced. Per contra, respondent in person vehemently opposed the instant revision petition and submitted that the same is based on false, vague, concocted, frivolous and fictitious facts. 414

It is submitted that the settlement was arrived at between the parties on 15th November 2008 and on 21st March, 2009 the revisionist wife had received Rs.3 lakhs as part of her items, therefore, she is not entitled for any further maintenance. The respondent submitted that the present petition is not maintainable as the revisionist wife is living separately on her own accord. The gross allegations of the revisionist wife regarding abuse or ill-treatment on account of alleged demand of dowry are totally false and are nothing but tactics to extort money from him. It is submitted that the revisionist wife is a graduate and is capable enough to work and earn money for herself, whereas, the respondent himself is only a fifth standard pass. Moreover, he is living in a rented property and has to take care of his old and ailing parents as well for which he does not have sufficient means. It is submitted that if the maintenance is enhanced, he will suffer miserably and will not be able to survive with the minimum means available. It is further submitted that the Court below has passed a well-reasoned judgment after considering the entire facts of the case as well as the evidence, documents and other materials available on record related to the income of the respondent. In the instant case, there are no errors apparent on the facts or record and there is no illegality committed by the Court below. Therefore, the instant petition is devoid of merits and is, therefore, liable to be dismissed. This Court has heard learned counsel of the revisionist and respondent in person at length and perused the record. It is submitted that the petitioner is a proprietorship firm engaged in manufacturing of boxes, packaging material and other material which is used in logistic industry for safe transportation of goods. Respondent is stated to be a supplier of plywood and other wooden material used in the manufacturing of corrugated boxes and other packaging material by the petitioner. Respondent claimed an outstanding amount qua the petitioner in respect of goods supplied by it to the petitioner in the year 2016. Claim was filed by the respondent before the Haryana and 1 of 13 Small Enterprises Facilitation Council claiming. It is contended that the matter was referred for arbitration without any valid order being passed on conciliation proceedings under the Micro, Small and Medium Enterprises Development Act, 2006. 404

The Governor has not properly exercised his mind in approving the waiver and withdrawal of the petitioner's valuable right under Section 5A of the Act. In other words it is their stance that resort to the emergency provisions contained in Section 17 of the Act were unwarranted and unjustified in the facts of the present case. It will be relevant to record at the threshold that acquisition proceedings stand completed in respect of an overwhelming portion (stated by Mr. Poddar to be as much as 80 per cent) of the subject land, that is, its possession has been taken over by the Government which has tendered compensation to the erstwhile owners.

The proceedings for acquisition start with a preliminary notification under Section 4. By that notification the Government notifies that land in any locality is needed or is likely to be needed for any public purpose. On that notification certain consequences follow and authority is conferred on an officer either generally or specially by Government and on his servants and workmen to enter upon and survey and take levels of any land in such locality to dig or bore into the sub-soil, to do all other acts necessary to ascertain whether the land is adapted for such purpose to set out the boundaries of the land proposed to be taken and so on. Then Section 5A provides that any person interested in any land which has been notified in Section 4 may within thirty days of the issue of the notification object to the acquisition of the land or of any land in the locality as the case may be. Every such objection shall be made to the Collector in writing and the Collector has to give the objector an opportunity of being heard. After hearing all objections and after making further inquiry if any has he thinks fit, the Collector has to submit the case for the decision of the Government together with the record of the proceedings held by him and the report containing his recommendations on the objections. The decision of the Government on the objections is final. Then comes the notification under Section 6 which provides that when the appropriate Government is satisfied after considering the report, if any, made under Section 5A that any particular land is needed for a public purpose, a declaration shall be made to that effect and published in the Official Gazette. 401

After such a declaration has been made under Section 6, the Collector has to take order for acquisition of land. It is marked out measured and planned under Section 8 if necessary and notice is given under Section 9 to persons interested. The Collector then holds inquiry under Section 11 and makes an award. After the award is made the Collector has got the power to take possession of the land under Section 16 and the land then vests absolutely in the Government free from all encumbrances.

It will be clear from this scheme that compliance with the provisions of Section 5A is necessary before a notification can be issued under Section 6. As soon as the preliminary notification is used under Section 4 the officer authorized by Government may enter upon the land to survey it and to do all other necessary acts to ascertain whether the land is adapted for the purpose for which it is to be acquired and this action if taken will give sufficient notice to those interested to object. If objections are made the Collector will consider those objections and make his recommendation thereon in his report to Government. If no objections are made the Collector will report that no objection has been made and the Government then proceeds to issue a notification under Section 6. In either case however, the Collector has got to make a report with his recommendations on the objections if they are filed or inform the Government that there are no objections filed in pursuance of the notification under Section 4 and it is thereafter that the Government is empowered under Section 6 to issue a notification. This, as we have said is the usual procedure to be followed before the notification under Section 6 is issued. To this usual procedure there is however an exception under Section 17 and that is why in Section 6 we find the words if any in the clause after considering the report if any made under Section 5A. When action is taken under Section 17(4) it is necessary to follow the procedure in Section 5A and a notification under Section 6 can be issued without a report from the Collector under Section 5A.

It will be seen that Section 17(1) gives power to the Government to direct the Collector, though no award has been made under Section 11 to take possession of any waste or arable land needed for public purpose and such land thereupon vests absolutely in the Government free from all encumbrances. 422

The present suit has been filed seeking permanent/perpetual injunction restraining the defendants from infringing the trademark of the plaintiffs along with passing off and other ancillary reliefs. The plaintiff No.1 Volvo, plaintiff No.2 Volvo trademark holding, plaintiff No.3 Volvo car corporation and plaintiff No.4 Volvo trucks corporation (hereinafter collectively referred to as the plaintiff) are companies incorporated under the laws of Sweden having their core business in transportation and automotive sector including the business of manufacturing spare parts, accessories and ancillary parts for vehicles. Plaintiff No.1 is a world leader in heavy commercial vehicles such as trucks, buses and construction equipment as well as in drive systems for marine and industrial applications. Plaintiff No.1 is stated to have established a flagship company namely Volvo India Private Limited in India in 1996. Plaintiff No.3 produces and distributes a premium range of cars that includes sedans, wagons, sports-wagons, cross country cars and SUVs with the mission to be the world's most progressive and desired premium car brands with a strong commitment to safety, quality and the environment. Plaintiff No.3 launched two car models that is Volvo S80 and Volvo XC90 in India in September 2007 and carries on business in India through its subsidiary Volvo Auto India Private Limited. Plaintiff no.3 has been a leader in the automotive car segment for decades with a diverse range of premium SUV and sedan cars electric/non-electric catering to customers in the luxury segment in India. Volvo cars experienced a robust growth in 2023, with a 31% increase in overall sales, delivering over 2,423 cars. The name/mark Volvo also forms a conspicuous and prominent part of the corporate names of various companies forming a part of the Volvo group including but not limited to Volvo Auto India Private Limited, Volvo Group India Private limited, Volvo Financial Services (India) Private Limited and Volvo CE India Private Limited. Extracts from the website of the Ministry of Corporate Affairs illustrating the said fact are filed with the list of documents filed with the plaint. Both the plaintiffs No.1 and 3 manufacture goods and provide related services throughout the world under the trademark and trade name Volvo. The plaintiffs are stated to have commercially launched their first Volvo bus in India in the year 2001 and have over time introduced technological advancements which have developed the transportation economy and redefined bus technology in India. 395

In 2021, a Constitution Bench of the Supreme Court had struck down the earlier Maratha quota law, enacted in 2018 which granted 16% reservation stating that no extraordinary circumstances justified the separate reservation for Marathas, which exceeded the 50% ceiling limit mandated by the 1992 Indra Sawhney (Mandal) judgment. The Supreme Court also questioned the empirical data submitted to establish Marathas' social backwardness. The Kerala High Court has introduced e-filing facility in 57 jails in the State for filing jail appeals and other petitions/applications seeking judicial remedy moved by prisoners before the High Court. Till now, the jail appeals, filed under Section 424 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 and other petitions/applications were being prepared in the paper form. Thereafter, these would be sent to the High Court for filing. 403

The Court was hearing writ petitions filed by two police officials against whom the SHRC had passed the order on a complaint filed by one Rajnikant. The SHRC had ordered to pay Rs.1 lakh compensation to Rajnikant which was to be recovered from the officers. Rajnikant had complained that he was taken up by the police officers at 03:00 AM on December 20, 2013 and he was locked up at the station. He said that in the lock up, he was coerced to remove all his clothes and was treated inhumanely. Rajnikant also said that he was assaulted by the police. After remand, instead of taking Rajnikant to the jail directly, it is alleged that the officers had taken him to a dark place near Puzhal Police Station and assaulted him. Thus, he had alleged that the officers had violated his human rights. The SHRC concluded that Rajnikant had suffered humiliation at the hands of the Inspector and Sub-Inspector which amounted to violation of his rights, personal liberty and dignity. Noting that the Government was vicariously liable to pay compensation for the employee, the SHRC recommended the State to pay a compensation of Rs.1 lakh to Rajnikant and to recover the said amount from the two officers as per rules and regulations. The Government considered the recommendations accepted it and sanctioned the amount by way of a Government order. This order was also challenged in the present pleas. On behalf of the officers, it was argued that the SHRC's finding of human rights violation was without any basis. It was submitted that the SHRC had failed to consider that Rajnikant was charged for an offence under Section 420 IPC. It was also argued that the norms laid down by the NHRC had not been violated. The officers also questioned the monetary compensation, stating that it was fixed without any discussion. The Special Government Pleader submitted that the commission's order was binding and enforceable. It was submitted that the Commissioner could recover the compensation from the State which would be paid to the victims of violation of human rights and the State could in turn recover the compensation from the erring officers. The Court noted that Rajnikant had filed complaints against the officers before the Commissioner of Police, Chennai and other higher officials and had even filed a petition for getting proper medical treatment at the Rajiv Gandhi Government Hospital. 399

At the same time, the Court noted that the officers had not produced medical certificate before the Magistrate at the time of remand. The Court noted that though the officers had produced an outpatient receipt before the commission, it neither had the doctor's sign nor the hospital's seal. The Court further noted that though the SHRC had passed the order in 2018, the officers who were affected by the order had not chosen to challenge the same until the Government passed the order, accepting the recommendations. The Court thus opined that there was no reason to interfere with the order of the commission or the Government order passed by the State and dismissed the petitions.

The Court discussed the definition and scope of commercial disputes under Section 2(1)(c) of the Act, noting that it provides for agreements relating to immovable property used exclusively in trade and commerce. However, the Court further clarified that in order to find out whether a dispute is commercial or not, there should be a conjoined reading of Sections 2(1)(c)(vii), 2(1)(i) and 12. Thus, the Bench noted that only appeals, suits or applications related to commercial disputes of a specified value are to be tried by Commercial Courts. Relying on the Supreme Court's decision on *Ambalal Sarabhai Enterprises Limited versus K.S. Infraspace LLP*, the Court reiterated that only disputes that clearly meet the definition under Section 2(1)(c) should be tried in Commercial Courts. A purposive and strict interpretation of the Act was deemed necessary to ensure that only genuine high-value commercial matters are fast-tracked. If the provisions are given a liberal interpretation, the object behind constitution of Commercial Division of Courts namely putting the matter on fast track and speedy resolution of commercial disputes will be defeated. The object shall be fulfilled only if the provisions of the Act are interpreted in a narrow sense and not hampered by the usual procedural delays plaguing our traditional legal system. Relying on the interpretation by the Supreme Court, the Court emphasized that the term used exclusively in trade and commerce must be interpreted as actually used not likely to be used or intended to be used. Therefore, if the use of the property for trade is incidental or unsubstantiated at the time of the agreement, the Commercial Court cannot assume jurisdiction. Merely because suit shop is being used for running business, the question of eviction from said suit shop would not become commercial dispute. 406

The Enforcement Directorate (ED) issued summons under PMLA Section 50 to Senior Advocate Arvind Datar in connection with its investigation into the Employee Stock Option Plan (ESOP) granted by Care Health Insurance previously Religare Health Insurance to former Religare Enterprises Chairperson Rashmi Saluja. SCAORA, Madras Bar Association, Delhi High Court Bar Association, Gujarat High Court Advocates Association and the statement by SCBA President amongst several other senior advocates condemned this act by ED in the strongest terms with SCAOARA stating that such a notice was a chilling message to the legal community at large and threatens the foundational right of every citizen to receive independent legal counsel without fear or intimidation. Subsequently, on 16.06.2025, ED withdrew the summons to Arvinda Datar. These actions, by the ED we believe amount to an impermissible transgression of the sacrosanct lawyer client privilege and pose a serious threat to the autonomy and fearless functioning of advocates. Such unwarranted and coercive measures against senior members of the Bar for discharge of professional duties set a dangerous precedent, potentially resulting in a chilling effect across the legal community. The role of an advocate, in offering legal advise, is both privileged and protected. Interference by investigative agencies strikes at the heart of the rule of law. The issuance of such notices by ED to senior advocates in the last few days have opened up the interesting legal question, does ED have overriding powers under Section 50 of the Prevention of Money Laundering Act, 2003 (PMLA) to force a practicing advocate, especially with clients who are being investigated by ED to give statements, share files, share file notes, open his/her email accounts, provide passwords, give email dumps and access to other privileged documents and communication disregarding the protection under Bharatiya Sakshya Adhiniyam, 2023 Sections 132, 133 and 134 previously Indian Evidence Act, 1872 Sections 126, 127, 128 and 129. Interestingly, late on 20.06.2025, ED through Deputy Director (Legal), issued Circular No.03/2025 dated 20.06.2025. Directive for issuing summons to legal practitioners/advocates/lawyers wherein it has directed all ED offices and ED officers that it is directed that no summons shall be issued to any advocate in violation of Section 132 of the BSA, 2023. Further, if any summon needs to be issued under the exceptions carved out in proviso to Section 132 of the BSA, 2023 the same shall be issued with the prior approval of the Director, ED. 401

At this stage, when there are only allegations and recriminations but no evidence this Court cannot anticipate the result of the investigation and render a finding on the question of mala fides on the materials at present available. Therefore, it cannot be said that the complaint should be thrown overboard on the mere unsubstantiated plea of mala fides. Even assuming that the complainant has laid the complaint only on account of his personal animosity that by itself will not be a ground to discard the complaint containing serious allegations which have to be tested and weighed after the evidence is collected.

The dominant purpose of registration of the case and the intended follow up action are only to investigate the allegations and present a case before the Court, if sufficient evidence in support of those allegations are collected but not to make a character assassination of the person complained against. Under Section 5(1)(e) of the Prevention of Corruption Act is entrusted should not proceed with a pre-conceived idea of guilt of that person indicated with such offence and subject him to any harassment and victimization because in case the allegations of illegal accumulation of wealth are found during the course of investigation as baseless the harm done not only to that person but also to the office he held will be incalculable and inestimable. In the instant case, the SP seems to have exhibited some over-enthusiasm presumably to please someone and had directed the SHO to register the case and investigate the same even on the very first day of the receipt of the complaint from the DGP in whose office the complaint was lying for merely 9 days. This unprecedented over-enthusiasm shown by the SP without disclosing the reasons for making an order entrusting the investigation to the SHO who is not a designated officer under Section 5A(1) really shocks ones' sense of justice and fair play even though the untested allegations made in the complaint require a thorough investigation. Still, it is an inexplicable riddle as to why the SP had departed from the normal rule and hastily ordered the SHO to investigate the serious allegations leveled against a former Chief Minister and a Minister in the Cabinet of the Central Government on the face of the registration of the case. However, this conduct of the SP can never serve as a ground for quashing the FIR. 399

Before entering upon the discussion of issues arising herein it is well to reiterate the well-accepted proposition that the scope of judicial review in these matters is the same whether it is a writ petition filed under Article 226 of the Constitution of India or a suit filed in the Civil Court. To clear the ground for considering the main question arising herein, we may first dispose of the additional ground assigned by the High Court. Because Balwant Singh, the complainant was not examined it cannot be a case of no evidence. As stated above, as many as six witnesses were examined including two officers of the bank who conducted the preliminary enquiry and had recorded the statements of witnesses including Balwant Singh. They spoke to the preliminary enquiry conducted by them and the statement of Balwant Singh recorded by them. Other bank officials were examined to establish that the letter Exhibit P6 addressed to the Tehsildar, Bhatinda was in fact written by and bears the signature of the respondent. Kaur Singh Patwari was also examined. It is on the basis of this evidence that the Enquiry Officer had come to the conclusion that both the charges were established in spite of non-examination of Balwant Singh. Neither the trial Court nor the first Appellate Court has found that it is a case of no evidence. The additional ground assigned by the High Court is, therefore, unsustainable in law.

Now, coming to the main ground upon which the plaintiff's case has been decreed namely the non-furnishing of the copies of the statements of witnesses and documents, the factual position as found by the Appellate Court is to the following effect though a list of documents/witnesses was furnished to the respondent before the commencement of the enquiry, the copies of the documents and statements recorded during the preliminary enquiry were not supplied to the respondent. Half an hour before the commencement of the enquiry proceedings the respondent was advised to peruse the said documents and the statements of witnesses which he did. Balwant Singh was not examined at the regular enquiry. The other witness who was examined during the preliminary enquiry, Kaur Singh Patwari was examined at the regular enquiry. The question is whether on the above facts, it can be held that there is a violation of Regulation 68 and whether the violation, if any vitiates the enquiry. 398

In our country, Sivakasi was one taken as the worst offender in the matter of violating prohibition of employing child labour. As the situation there had become intolerable, the public spirited lawyer Shri MC Mehta thought it necessary to invoke this Court's power under Article 32 as after all the Fundamental Right of the children guaranteed by Article 24 was being grossly violated. He, therefore, filed this petition. It once came to be disposed of by an order of October 31, 1990 by which it was held that in Sivakasi as on December 31, 1985 there were 221 registered match factories employing 27,000 workmen of whom 2,000 were children. The Court then noted that the manufacturing process of matches and fireworks for the manufacture of which also Sivakasi is a traditional centre is hazardous giving rise to accidents including fatal cases. So, keeping in view the provisions contained in Article 39(f) and 45 of the Constitution it gave certain directions as to how the quality of life of children employed in the factories could be improved. The Court also felt the need of constituting a Committee to oversee the directions given. Subsequently, suo motu cognizance was taken in the present case itself when news about an unfortunate accident in one of the Sivakasi cracker factories was published. At the direction of the Court Tamil Nadu Government filed a detailed counter stating inter alia that number of persons to die was 39. The Court gave certain directions regarding the payment of compensation and thought that an advocate's Committee should visit the area and make a comprehensive report relating to the various aspects of the matter, as mentioned in the order of August 14, 1991. The Committee was to consist of Shri RK Jain a Senior Advocate, Ms. Indira Jaisingh, another Senior Advocate and Shri K.C. Dua, Advocate.

The Committee has done a commendable job. It submitted its report on 11.11.1991 containing many recommendations the summary of which is to be found at Pages 24-25 of the report, regarding as below. State of Tamil Nadu should be directed to ensure that children are not employed in fireworks factories. The children employed in the match factories for packing purposes must work in separate premises for packing. Employers should not be permitted to take work from the children for more than six hours a day. Proper transport facilities should be provided by the employers and State Government for travelling of the children from their homes to their work places and back. 414

Appeals by special leave against those judgments were filed and in three such appeals it was noticed by a three-Judge Bench of this Court that there was a conflict between Challappan's case and another three-Judge Bench in *M. Gopala Krishna Naidu versus State of Madhya Pradesh* 1968 (1) SCR 355 and directed that the papers in the three appeals be placed before the Hon'ble Chief Justice for reference to a larger Bench. These appeals were thus referred to the Constitution Bench and all other similar appeals and writ petitions were also placed before the Constitution Bench for disposal. The arguments advanced on behalf of the Government servants on the pleasure doctrine in England is a part of the special prerogative of the crown and had been inherited by India from England and should, therefore, be constructed strictly against the Government and liberally in favour of Government servants. The second proviso which withdraws from Government servants the safeguards provided by Clause (2) of Article 311 must be also similarly constructed otherwise great hardship would result to Government servants as they could be arbitrarily thrown out of employment and they and their dependents would be left without any means of subsistence.

There are several stages before a Government servant can be dismissed or removed or reduced in rank namely serving upon him of a show-cause notice or a charge-sheet giving him inspection of documents, examination of witnesses, arguments and imposition of penalty. An inquiry starts only after a show-cause notice is issued and served. A show-cause notice is thus preparatory to the holding of an inquiry and even if the entire inquiry is dispensed with the giving of a show-cause notice and taking of the explanation of the Government servant with respect thereto are not excluded. It is not obligatory upon the disciplinary authority to dispense with the whole of the inquiry. Depending upon the circumstances of the case, the disciplinary authority can dispense with only a part of the inquiry.

Imposition of penalty is not a part of the inquiry and once an inquiry is dispensed with whether in whole or in part it is obligatory upon the disciplinary authority to give an opportunity to the Government servant to make a representation with respect to the penalty proposed to be imposed upon him. The Secretary to the Ministry of Labour, Government of India would apprise this Court within one year of today about the compliance of aforesaid directions. 407

The Secretary to the Ministry of Labour, Government of India would apprise this Court within one year of today about the compliance of aforesaid directions. If the petitioner would need any further of other order in the light of the compliance report, it would be open to him to do so. We should also like to observe that on the directions given being carried out, penal provision contained in the aforesaid 1936 Act would be used where employment of a child labour prohibited by the Act would be found. Insofar as the non-hazardous jobs are concerned, the Inspector shall have to see that the working hours of the child are not more than four to six hours a day and it receives education at least for two hours each day. It would also be seen that the entire cost of education is borne by the employer.

The task is big but not as to prove either unwieldy or troublesome. The financial implication would be such as to remove a damper because the money after all would be used to build up better India. In this context, it is worth pointing out that covertly as such has not stood in the way of other developing countries from taking care of child labour. It has been pointed out by myron of his book *The Child and the State in India* that India is a significant exception to the global trend towards the removal of children from the labour force and the establishment of compulsory, universal primary school education with income level lower than India have done better in these matters. This shows that has caused the problem of child labour to persist here is really not dearth of resources but lack of real zeal. Let, this not continue let us all put our head and efforts together and assist the child for its good and greater good of the country.

We part with the fond hope that the closing year of the 20th century would see us keeping the promise made to our children by our Constitution about a half century ago. Let, the child of 21st century find himself into that heaven of freedom of which our poet laureate Rabindernath Tagore has spoken in *Gitanjali*. Let, a copy of this judgment is to be sent to Chief Secretaries of all the State Governments and Union Territories so also to the Secretary, Ministry of Labour, Government of India for their information and doing the needful. 413

Appellant and respondent were working together in a private company. The respondent who was working as a Personal Officer of the company was a married person having two children and the appellant aged 33 years was unmarried. Constant contacts between them developed intimacy and in the year 1992, appellant left the job from the abovementioned company and started living with the respondent in a shared household. Appellant family members including her father, brother and sister and also the wife of the respondent opposed that live-in-relationship. She has also maintained the stand that the respondent, in fact, started a business in her name and that they were earning from that business. After some time, the respondent shifted the business to his residence and continued the business with the help of his son, thereby depriving her right of working and earning. Appellant has also stated that both of them lived together in a shared household. Further, it was also stated that the respondent took a sum of Rs.1 lakh from the appellant stating that he would buy a land in her name, but the same was not done. Respondent also took money from the appellant to start a beauty parlour for his wife. Appellant also alleged that during the year 2006, respondent took a loan of Rs.2.50 lakh from her and had not returned. Further, it was also stated that the respondent all along was harassing the appellant by not exposing her as his wife publicly or permitting to suffix his name after the name of the appellant. Appellant also alleged that the respondent never used to take her anywhere either to the houses of relatives or friends or functions. Appellant also alleged that the respondent never used to accompany her to the hospital or make joint bank account execute documents etc. Respondent family constantly opposed their live-in-relationship and ultimately forced him to leave the company of the appellant and it was alleged that he left the company of the appellant without maintaining her.

Appellant then preferred criminal miscellaneous No.692 of 2007 under Section 12 of the DV Act before the Additional Chief Metropolitan Magistrate, Bangalore seeking the following reliefs. Pass a protection order under Section 18 of the DV Act prohibiting the respondent from committing any act of domestic violence against the appellant and her relatives and further prohibiting the respondent from alienating the assets both moveable and immovable properties owned by the respondent. 403

In his testimony, Parveen Kumar Chhabra (PW2) brother of the deceased had deposed that his sister used to complaint that the appellant herein and

and on one occasion, she had been sent back to her parental home on account of insufficient dowry. He had also deposed that about a month before the demise of Madhu Bala, in the month of May 1996 the accused had shifted their residence to premises No.G17 Vikas Puri and at that time, all of them had made demands of new furniture and a colour television from the deceased. PW2 had stated that fifteen days prior to the demise of Madhu Bala his parents had supplied a new double bed as demanded by the accused but had failed to provide a mattress due to which his sister was tortured by them.

Dalip Kumar Chhabra (PW5) the other brother of Madhu Bala had deposed that the appellant had demanded a catering van to enable him to settle down in his life. He stated that within a month of the marriage, the accused persons had started demanding a colour television and other articles from the deceased and once when Madhu Bala and the appellant had visited her parental house their mother had paid a sum of Rs.25,000 to the appellant in the presence of Sh. Harish Chand Chhabra (father of the deceased). He had deposed that the appellant's mother used to ask Madhu Bala's family members to arrange money for her son so as to settle him in life as he wanted to start his own business and two days prior to her death their sister (PW4) had received a telephonic call from the appellant that he had purchased a shop and had paid the earnest money but needed money to pay the balance amount of the sale price. In her testimony, Smt. Anita Choudhary (PW4) Madhu Bala's sister had stated that when the accused had shifted to their house at Vikas Puri her father had given him a sum of Rs.10,000 and provided a double bed on the demand of the appellant's mother. She had also deposed about the visit of Madhu Bala and the appellant to her parental home and the fact that at that time, a demand of Rs.25,000 was raised and their mother had paid the said amount of the appellant. 398

It was contended on behalf of the applicants that the present complaints are barred by limitation and that the limitation has to be counted from the issuance of first notice and issuance of first notice and issuance of a notice thereafter would not give jurisdiction and would not further extend the period of limitation. It was contended on behalf of the applicants and the cheques in question came to be deposited for the first time and were dishonoured on 14.09.2010 and 24.09.2010. It was further contended that on account of dishonour of cheques, a notice was sent on 30.09.2010 by e-mail and therefore, the period of 30 days would expire on 30.10.2010 whereas in the instant case, the complaints have been filed on 24.11.2010. It is also alleged on behalf of the applicants that the complainant has in fact concealed these facts.

It was further contended on behalf of the applicants that the reliance placed for and on behalf of the respondents upon the judgment of the Hon'ble Apex Court came to be overruled is misplaced. It was contended on behalf of the applicants that even in the case of M/s Leathers (supra) the Hon'ble Apex Court has specifically observed the successive dishonor of cheques is also permissible so long as the same satisfies the requirements stipulated in proviso to Section 138 of the Act as amended. It was further contended that in absence of condonation of delay being sought for and since there is no application for condonation of delay being sought for and since there is no application for condonation of delay being sought for and since there is no application for condonation of delay the complaint becomes barred by limitation from the date of the notice. It was further contended by the applicants that the judgment of M/s Leathers (supra) deals with the proviso coupled with the fact that it lays down only successive presentation not being barred, but the same is subject to proviso. It was further contended by Mr. Sharma on behalf of the applicants that all that is being explained is that since proviso deals with limitation and even on the basis of the subsequent dishonor and notice thereupon the complaints may be entertained provided the delay is explained. However, in the instant case, in the first demand notice, there is clear categorical demand of the amount of dishonoured cheques and the same relates to these very facts as no other cheques were dishonoured. 410

This appeal is preferred against the judgment of the Central Administrative Tribunal, Principal Bench New Delhi quashing the charges (charge-sheet) framed on February 07, 1991 against the respondent. The respondent is a member of the Indian Revenue Service (IRS) and is presently working as Deputy Commissioner of Income Tax. On February 07, 1991 a memorandum of charges was issued to him accompanied by a statement of imputations of misconduct or misbehaviour in support of article of charges framed against him. The articles of charges are the following.

The said Sh. Upendra Singh while posted as Inspecting Assistant Commissioner of Income Tax, B.S.D. (North) Range Bombay during the financial year 1986-87 got a survey under Section 133A of Income Tax Act, 1961 conducted in the cases of Raghuvanshi Group of Builders on January 09, 1987. During the course of this survey incriminating documents and a confessional statement of the assessee showing unaccounted receipts of Rs.1.56 crores and admitted unaccounted incomes of Rs.46.60 lakhs earned by four firms of this group. During the aforementioned proceedings under Section 144A, the said Sh. Upendra Singh neither examined the incriminating documents and evidence collected during the survey nor passed any orders under Section 144A, in spite of being aware of the evidence gathered during the survey.

The said Sh. Upendra Singh during the aforementioned proceedings under Section 144A improperly and illegally agree in the assessee's offer to disclose only an amount of Rs.11 lakh in the names of the aforesaid firms and did not direct the Assessing Officer to bring to tax the full amount of undisclosed incomes of these firms as admitted during the survey on January 09, 1987. The said Sh. Upendra Singh gave illegal and improper directions to the Assessing Officer to complete the assessments in the cases of M/s Raghuvanshi Builders under Section 143(1) even though at the relevant time proceedings under Section 144A of I.T. Act, 1961 were pending before him and these cases did not come within the purview of the summary assessment scheme of the amnesty scheme of the CBDT. Sh. Upendra Singh has, therefore, violated Rules 3(1)(i), 3(1)(ii) and 3(1)(iii) of the CCS (Conduct) Rules, 1964. For the purposes of this case, it is not necessary to set out the statement of imputations which is a very lengthy one referring elaborately to the material and evidenced which was sought to be relied upon against the respondent at the proposed inquiry. 403

When the matter went back to the Tribunal, it went into the correctness of the charges on the basis of the material produced by the respondent and quashed the charges holding that the charges do not indicate any corrupt motive or any culpability on the part of the respondent. We must say, we are not a little surprised at the course adopted by the Tribunal. In its order dated September 10, 1992 this Court specifically drew attention to the observations in A.N. Saxena that the Tribunal ought not to interfere at an interlocutory stage and yet the Tribunal chose to interfere on the basis of the material which was yet to be produced at the inquiry. In short, the Tribunal undertook the inquiry which ought to be held by the disciplinary authority (or the Inquiry Officer appointed by him) and found that the charges are not true. It may be recalled that the jurisdiction of the Central Administrative Tribunal is akin to the jurisdiction of the High Court under Article 226 of the Constitution. Therefore, the principles, norms and the constraints which apply to the said jurisdiction apply equally to the Tribunal. If the original application of the respondent were to be filed in the High Court it would have been termed, properly speaking as a Writ of Prohibition. A Writ of Prohibition is issued only when patent lack of jurisdiction is made out. It is true that a High Court acting under Article 226 is not bound by the technical rules applying to the issuance of prerogative writs like certiorari, prohibition and mandamus in United Kingdom, yet the basic principles and norms applying to the said writs must be kept in view as observed by this Court.

The language used in Articles 32 and 226 of our Constitution is very wide and the powers of the Supreme Court as well as of all the High Courts in India extend to issuing of orders, writs or directions including writs in the nature of habeas corpus, mandamus, quo warrants, prohibition and certiorari as may be considered necessary for enforcements of the Fundamental Rights and in the case of the High Court for other purposes as well. In view of the express provisions in our Constitution we need not now look back to the early history or the procedural technicalities of these writs in English law nor feel oppressed by any difference or change of opinion expressed in particular cases by English Judges. 411

A dying declaration, therefore, enjoys almost sacrosanct status as a piece of evidence coming as it does from the mouth of the deceased victim. Once the statement of dying person and the evidence of the witnesses testifying to the same passes the test of careful scrutiny of the Courts, it becomes very important and reliable piece of evidence and the Court is satisfied that the dying declaration is true and free from embellishment such a dying declaration by itself can be sufficient for recording conviction without looking for any corroboration. A Division Bench of this Court in its judgment in the case of State versus Koli Chunilal reported in 2000 (4) GLR 3277 has after referring to the earlier judgment of the Hon'ble Apex Court discussed about the test and observed that Supreme Court emphasized that shortness of the statement itself guarantees truth. Once of the important tests of reliability of dying declaration that the person who recorded it must be satisfied that the deceased was in a fit state of mind. Generally, the following three tests have been devised in judicial pronouncement in order to answer the question whether the dying declaration is true. Was the victim in a position to identify the assailants, whether the version narrated by the victim is intrinsically sound and accords with probabilities, whether any material part is proved to be false by other reliable evidence?

Moreover, the contention which has been raised and much emphasized by learned Advocate Ms. Rekha Kapadia that dying declaration does not bear the endorsement of the doctor about the condition of the deceased patient and, therefore, is not reliable has been considered and dealt with by the Hon'ble Apex Court and it clearly answers the contentions raised by learned Advocate Ms. Rekha Kapadia that the dying declaration ought not to be relied on as there was no endorsement of the doctor on the dying declaration itself and that the doctor was not examined and the said contention was negative by the Hon'ble Apex Court. It has been observed that the Court is unable to accept the submission of the learned counsel that two dying declaration cannot be relied upon as the doctor has not been examined and the doctor has not made any endorsement on the dying declaration with regard to the condition of the deceased, the Magistrate who recorded the dying declaration has been examined as a witness. 401

The Madras High Court quashed the proceedings on this ground prompting the complainant to approach the Supreme Court. Setting aside the High Court's decision the judgment authored by Justice restored the complaint and granted liberty to the appellant-complainant to implead the partnership firm as an accused. The Court held that the High Court had erred in declaring the complaint non-maintainable emphasizing that a partnership firm cannot carry out business independent of its partners. Therefore, any breach committed by the firm would render both the firm and its partners jointly liable for the resulting legal consequences. The Court distinguished the decision of Anita Hada versus Godfather Travels and Tours Limited (2012) 5 SCC 661 cited by the respondent which mandates arraignments of the company before prosecuting its directors under Section 141 of the NI Act. It said that this decision does not apply to partnership firms because directors have vicarious liability whereas partners have direct and personal liability under partnership law. Therefore, even in the absence of partnership firm being named as an accused if the partners of the partnership firm are proceeded against they being jointly and severally liable along with the partnership firm as well as inter se the partners of the firm the complaint is still maintainable. The accused in such a case would in substance be the partners of the partnership firm along with the firm itself. Since the liability is joint and several even in the absence of a partnership firm being proceeded against by the complainant by issuance of legal notice as mandated under Section 138 of the Act or being made an accused specifically in a complaint filed under Section 200 of Cr.P.C. Equivalent to Section 23 of the BNSS such a complaint is maintainable. Accordingly, the appeal was allowed. Thus, while under sub-Section (1) of Section 141 of the Act the criminal liability on the category of persons named in the said sub-section is owing to the position that person holds in the company when the company is said to have committed the offence under Section 138 and therefore the deeming fiction under sub-Section (2) of Section 141 of the Act on the other hand, there has to be a proof with regard to consent or connivance for the committing of the offence or a criminal negligence on the part of the Director, Manager, Secretary or other officer of the company who shall also be deemed to be guilty of the offence under Section 138 of the 49 Act. 417

The Punjab and Haryana High Court Bar Association has written to the Director General of Police (DGP) Chandigarh seeking cancellation of an FIR registered against an advocate accused of cheating his client by allegedly failing to file the client's case. An FIR under Section 420 IPC has been registered against Advocate Pankaj based on a complaint filed by one Gurwinder Singh pertaining to alleged non-filing of a consumer case. Gagandeep Jammu Association's Secretary expressed deep concern and strong reservation regarding registration of the said FIR which prima facie appears to be frivolous, baseless and motivated. The letter stated that if the FIR is not cancelled it may open a box where every disgruntled litigant may start lodging complaints against their counsel causing undue humiliation and embarrassment and ultimately undermining the sanctity of the judicial dispensation system. The allegations as seen in media reports appear to be a one-sided narrative lacking proper verification and are seemingly intended to malign his reputation. The initiation of criminal proceedings without prior inquiry risks causing irreparable damage to the standing of an advocate in the eyes of the public. The letter highlights that any dispute or grievance between advocates and clients must first be examined through the appropriate legal and disciplinary mechanisms as laid down under the Advocates Act, 1961. Referring to Section 35 of the Act the letter stated that the provision empowers the State Bar Council to inquire into allegations of professional misconduct and take appropriate action including referring any matter involving criminality to the police authorities if deemed necessary. Consequently, the association requested to refer the matter to the Bar Council of Punjab and Haryana for an inquiry and determination of factual aspect. The Court remarked that the truth behind this missing kidney is yet a mystery was never investigated into and it needs to be ascertained if there is any criminality to the case. The plea was filed by Mangat Ram Sharma whose daughter Tanya Sharma was admitted in the HMC Hospital, Ludhiana on June 01, 2021 for surgery. The surgery was performed on June 02, 2021 by one Dr. Vyom Bhargava, Spine Brain Surgeon along with other doctors. Thereafter, another surgery was conducted on the deceased on June 07, 2021. However, the condition of the deceased kept on deteriorating and unfortunately she passed away on 16.06.2021 at the hospital. The petitioner reported the matter to the police and on the basis of his complaint an autopsy of the deceased was conducted. 412

The Punjab and Haryana High Court has ordered the Central Bureau of Investigation to take over the probe into a Colonel's assault allegations against the Punjab Police. This comes after the Court noted that the Special Investigation Team (SIT) entrusted to probe the case is creating loopholes to give benefit of doubt to accused police officers. Colonel Pushpinder Singh Bath who was posted at the Army headquarters in New Delhi alleged that on the night of March 13 four Inspector-rank officers of Punjab Police and their armed subordinates attacked him and his son without any provocation in Punjab. Justice Rajesh Bhardwaj expressing dissatisfaction with the investigation conducted by the SIT directed to transfer the case to CBI. In April the High Court had directed the Chandigarh Police to investigate the case and complete the probe within four months. The Court while hearing the previous pleas had pulled up the Punjab Government for delay in arresting the Punjab Police personnel allegedly involved in the assault. Later, the Court ordered that the investigation be led by an IPS Officer from the AGMUT cadre, ensuring no officer from the Punjab cadre is involved. Recently, the High Court calling it a horrific, gut-wrenching incident rejected the pre-arrest bail of Punjab Police personnel accused in the case. During the hearing, the petitioner's counsel stated that despite the dismissal of the accused's anticipatory bail petition on May 23rd no effort had been made to arrest the accused or progress the investigation. The counsel alleged that the UT police seemed to be protecting the accused who are police officials and that senior police officials might be involved. Questioning the intention of the SIT the Court also noted that the SIT during the investigation removed Section 307 IPC charge on the basis of the doctor's opinion. The plea was filed seeking quashing of the order which was dismissed by the NDPS Appellate Court on account of non-removal of the objections filed against freezing of the property of the petitioner under Section 68(f)(2) of the NDPS Act. As per the case, the petitioners were involved in the FIR under Section 20 of the NDPS Act. Consequently, on the basis of the order under Section 68(f)(1) of the NDPS Act having been passed by the Station House Officer of the concerned police station the competent authority passed the order under Section 68(f)(2) of the NDPS Act confirming the freezing order dated 29.08.2023 qua the property of the petitioners. 408

The PIL has been filed by a lawyer Shashank Shri Tripathi. He has alleged that there is widespread, continuing and unchecked violations of the Motor Vehicles Act, 1988 and the Central Motor Vehicles Rules, 1989 by delivery personnel engaged by various e-commerce, food and service platforms operating in the national capital. During the hearing Delhi Government's counsel informed Court that to meet the issues raised in the PIL a policy has been framed and notified on November 21, 2023 titled The Delhi Motor Vehicle Aggregator and Delivery Service Provider Scheme, 2023.

The plea states that there is a need to ensure that systemic and hazardous transportation practices by the e-commerce companies are immediately curbed and that statutory obligations regarding road safety and vehicular compliance are strictly enforced. It has been consistently observed that delivery personnel employed or contracted by respondent No.4 to 13 are routinely using two-wheeled vehicles to transport oversized, bulky and excessively heavy items including industrial toolkits, foldable furniture and commercial sized delivery boxes. These loads often exceed the permissible dimensions and weight limits under Indian traffic regulations, compromise the stability of vehicles, obstruct the vision of riders and endanger public safety. Furthermore, the plea contends that various notices and representations were written to the companies and authorities respectively but the response has either been completely absent or wholly inadequate. It further avers that the delivery ecosystem in urban India cannot be allowed to evolve in a regulatory vacuum that endangers the lives of delivery workers, commuters and pedestrians alike. The petitioner, therefore, prays for urgent directions to the respondents to comply with the law adopt enforceable delivery safety standards and ensure that their operational models do not incentivize or necessitate routine violations of statutory transportation limits. It was argued that Section 59 of Motor Vehicles Act, 1988 empowers only the Central Government to prescribe the age limit of motor vehicles. The petitioners argued that they have Fundamental Rights under Article 19 and 21 which are infringed by the unworkable restriction imposed by the State Government. The petitioners contended that there is no statutory liability on driving schools to conduct driving test or to provide vehicles for the test. Conducting driving test is the statutory duty of the State. Vehicles of driving schools are used only by way of convenience. It was also argued

that the installation of dashboard cameras are not required either under the Central Motor Vehicle Rules or under the State Rules. 407

The Punjab and Haryana High Court has held that a suspension order against a Government employee continues to remain in effect until it is expressly revoked by the competent authority in accordance with Haryana Civil Services (Punishment and Appeal) Rules and Dakshin Haryana Bijli Vitran Nigam Employees (Punishment and Appeal) Regulations, 2019. Justice Jagmohan Bansal pursuing Dakshin Haryana Bijli Vitran Nigam Employees (Punishment and Appeal) Regulations, 2019 said that Regulation 5 make it clear that once a suspension order is passed, it shall continue to remain in force until it is modified or revoked by competent authority. Sub-Regulations (5) and (7) would become otiose if it is held that in every case on the expiry of 90 days if departmental proceedings are not initiated the entire proceedings would vitiate. The plea was filed by an employee of Dakshin Haryana Bijli Vitran Nigam who was suspended following his arrest in a corruption case. Counsel for the petitioner argued that he was suspended on 30 October, 2024 and as per Regulations 5 of Haryana Civil Services (Punishment and Appeal) Rules, 2016 read with Rule 5 of 2019 Regulations, order of suspension cannot remain in force beyond 90 days unless it is extended. Per contra, the counsel appearing for the respondents submitted that Clauses (a) (b) and (c) of Regulation 5(1) of 2019 Regulations are independent from each other. Each clause addresses different factual scenario and is applicable to different situation. Proviso after Clause (c) of Regulation 5(1) is applicable to Clause (a) and (c) whereas case of the petitioner is covered by Clause (b), thus, period of 90 days to initiate departmental proceedings from the date of suspension is not applicable. After examining the submissions and perusing the Regulations, the Court noted that Regulation 5(1) of 2019 Regulations contemplates three situations each requiring an order to be passed by the competent authority. Sub-Regulation (2) contemplates two situations. There is no need to pass order under Sub-Regulation (2). An employee is deemed to be placed under suspension upon the occurrence of contemplated situation. Justice Bansal highlighted that the petitioner was suspended on account of his arrest by police authorities and his case squarely falls under Clause (b) of Regulation 5(1). There is proviso after Clause (b) which requires that suspended employee shall be bound to mark his presence on all working days in the office where his headquarter is fixed. 397

The Court added that the affidavit shall also set out the steps being taken by the State of Punjab to prevent these crimes. The Bench also asked the State to comply with the directions issued by a Single Judge to curb gangster culture. The Court was hearing its suo motu case against the use of mobile phones in the prisons. The SIT constituted by the Punjab and Haryana High Court revealed in August 2024 that gangster Lawrence Bishnoi's first interview glorifying crime and criminals was conducted when he was in CIA premises in Punjab's Kharar and the second interview was in a Jaipur jail. The Court had then directed Punjab's DGP to file an affidavit setting out the number and details of registration of criminal cases especially those relating to extortion/threatening calls, calls for ransom, abduction and intimidation of witnesses in the State of Punjab with effect from March, 2023 uptill December, 2023 when the interviews were directed to be removed from the website/channel/URL and 09 months prior to the broadcast of the interview. The Court reiterated that the SIT shall also examine the role of senior officers and ensure that lower level officials are not made scapegoat. It is difficult to believe that the interview could have taken place without involvement of senior officers especially when the place of interview could be established only after the intervention of this Court. During the hearing the Principal Secretary, Jails, Punjab submitted that the video conferencing facility (about 159) is in place in all the jails but it is not being adequately utilized for appearance of high risk prisoners before the trial Courts. Hence, it directed that the trial Courts within Punjab to use this facility as much as possible especially in the case of high risk prisoners as it not only spares the police personnel who are to be put on security duty but save sizeable public expenditure. The amicus curiae informed that proper infrastructure has not been provided to the SIT Head which is evident from the interruptions in the video proceedings in Court for want of proper and adequate Wi-Fi facility in the office. The Advocate General, Punjab then submitted that adequate facilities and infrastructure would be ensured forthwith. The matter is listed on August 18, for further consideration. The Punjab and Haryana High Court has asked the functionaries of Haryana Government to ensure that real estate developer DLF complies with the condition of afforestation on which it has been permitted to fell trees in Gurugram. 417

The Court was hearing a criminal miscellaneous case by the petitioner seeking to quash the criminal proceedings after a crime was registered against him for allegedly driving his scooter in a rash and negligent manner under the influence of alcohol. As per the prosecution case, the offences alleged against the petitioner were those under Section 281 rash driving or riding on a public way of the Bharatiya Nyaya Sanhita (BNS) along with Sections 185 driving by a drunken person or by a person under the influence of drugs, necessity for driving licence and 181 driving vehicles in contravention of Section 3 or Section 4 of the Motor Vehicles Act (MV Act). Kerala High Court issues guidelines for AI use in district judiciary, however, the petitioner denied all these offences and submitted that he was not subjected to medical tests or breathalyzer test in accordance with law. According to the petitioner, the breathalyzer test ought to have been conducted immediately after the police stopped his vehicles but in reality it was done much later. It was also contended that he was not subjected to medical test within two hours of his arrest as mandated under Section 204 of the MV Act. The petitioner also contended that the reading of the breathalyzer test was not at zero calibration immediately before the petitioner's breath sample was taken to detect presence of alcohol. Therefore, the breathalyzer test making/marketing the alcohol content in his presence cannot be relied on. He relied on a circular issued by the Director General of Civil Aviation which made it mandatory to run an air blank test on the instrument and obtain the reading before each breathalyzer test for personnel engaged in aircraft maintenance, air traffic control services, aerodrome operations and ground handling services. Accepting the contentions of the petitioner the Court held that offences under Section 185, 3(1) and 181 of the MV Act are not attracted since the petitioner was holding a valid licence and since there was no acceptable evidence regarding alcohol level in his blood. However, the Court opined that evidence has to be adduced to determine whether the offence under Section 281 BNS would be attracted or not. Therefore, the Court allowed the complaint in part by quashing the final report and further proceedings against the petitioner for the offences under Sections 185, 3(1) and 181 of the Motor Vehicles Act alone. 397

It was observed by the Court that the petitioner had challenged the dismissal order dated 07.01.2003 on the ground that the evidence recorded during the departmental enquiry was insufficient to sustain the charges of embezzlement. The Court held that in a writ jurisdiction under Article 226 of the Constitution, the High Court cannot re-evaluate the sufficiency of evidence, as long as some evidence exists on record to support the findings. The Court emphasized that judicial review in such cases is limited to instances where the findings are perverse, arbitrary or based on no evidence at all. The case of *State of Rajasthan versus Bhupendra Singh* was relied upon wherein it was held that judicial review is permissible in cases where the findings are based on no evidence or are perverse in nature. The Supreme Court reiterated that under Article 226 Courts cannot act as appellate bodies and interfere with factual findings unless there is no evidence or procedural irregularity. It was further observed by the Court that the Labour Court had carefully examined the proceedings of the enquiry and rightly concluded that the enquiry was conducted in accordance with law. The Enquiry Officer had come to the conclusion that Rs.500 had been embezzled from a customer's account and it was supported by evidence on record. With respect to the contention of disproportionate punishment it was held by the Court that embezzlement of funds in a banking institution is a serious charge. Even though the amount was small and later refunded that did not wipe out the misconduct. The case of *Union of India versus Constable Sunil Kumar* was relied upon wherein it was held that Courts can interfere in cases where the punishment is shockingly disproportionate to the misconduct proved. The Supreme Court held that judicial review of disciplinary punishment under Articles 226, 227 or 32 of the Constitution is limited and permissible only when the punishment is strikingly disproportionate, perverse or irrational. If a penalty is found disproportionate the High Court must remit the matter to the disciplinary authority for reconsideration. It was held by the Court that there was nothing arbitrary or unfair in the decision of the employer to dismiss the petitioner. The punishment of dismissal imposed was found to be not disproportionate to the charges alleged and proved. Thus the Labour Court's award was found to be legal, justified and well-reasoned.

395

The Bench thus granted bail to one Saneesh Soman in a case registered for the offences under Section 20(b), 22(c), 23(c), 27A and 29 of the NDPS Act. As per the FIR, the accused had gone at a DTDC courier office in Kerala to collect a parcel containing 100 LSD paper blots, collectively weighing approximately 3.5 grams. Soman was apprehended and the contraband was sealed and seized in accordance with law. Granting him bail the Court noted that the allegations against Soman were distinguishable from those leveled against other co-accused persons. It said that the recovery of contraband was linked to the parcel Soman came to collect and that nothing was recovered from him at the time of arrest, nor the NCB conducted a search of his residence or unearthed any other material which would suggest involvement in the alleged drug trafficking network.

The Court also observed that there was no independent or contemporaneous evidence such as CDRs, text messages, financial transactions or any other corroborative material, linking Soman to the trafficking operation or demonstrating his prior knowledge of the contents of the parcel in question. There are no incriminating call records, financial transactions or digital communications linking him to the co-accused or trafficking network. In the absence of such corroboration and given the settled position that confessions under Section 67 are insufficient without supporting evidence, this Court is of the view that the benefit of doubt ought to ensure to the applicant at this stage the Court said. Accordingly, for the limited purpose of bail there are reasonable grounds to believe that the applicant is not guilty of the offence alleged. The first limb of Section 37(1)(b) of the NDPS Act is therefore satisfied. The Court was dealing with a plea filed by the mother-in-law and father-in-law of the complainant wife seeking quashing of the charge-sheet filed against them in an FIR registered by the wife in 2015 in retaliation to the divorce case filed by the husband. While the matrimonial differences led to the separation of the parties but the custody of the child was with the husband and his parents. It was the husband's case that the wife was suffering from violent psychotic fits which was concealed by her family from him and his family members. Apart from the FIR the wife also filed complaints seeking maintenance, alleging dowry harassment and domestic violence.

396

Quashing the charge-sheet against the petitioners, the Court observed that it was a case where the matrimonial relationship did not work out well between the husband and wife and in order to bring the in-laws to their knees and to concede to the expectations of the wife, FIR was registered against them. Section 498A of IPC has become an easy tool in the hands of the complainants to settle the scores by getting false FIRs registered containing the exaggerated and manipulated allegations. The Court noted that there was no averment that any demand for dowry was made either prior or at the time for the expenditure incurred in the function of marriage and that the wife's family had performed the marriage according to their status and had spent money accordingly. Justice Krishna observed that while the true victims must get justice but the Courts must ensure that Section 498A of IPC is not be permitted to be misused and abused in order to ensure the credibility and faith in the justice delivery system. The Court noted that there was an adjustment issue between the wife and her husband which was given a colour of dowry harassment and that the FIR was registered as a counterblast to the divorce case filed by the husband. While the Court quashed the charge-sheet, it refused to quash the complaint case registered by the wife under the Domestic Violence Act. She had sought reliefs for protection, residence order, monetary relief, custody of the child as well as compensation. The Court observed that even if the contention of in-laws was accepted that there was no domestic violence, but the right of the wife to claim residence was still maintainable. As already noted above, it is essentially a civil proceeding and whether the respondent-wife is entitled to the reliefs sought by her in her petition under Section 12 of the DV Act is a matter to be adjudicated upon by the learned MM after considering the case on its merits. It cannot be held at this stage that the proceedings are vexatious or that outrightly no cause of action is disclosed in the petition and is liable to be quashed. The Delhi High Court has observed that the child being in custody of the husband after matrimonial disputes arise between the parties is not cruelty or harassment under Section 498A of Indian Penal Code, 1860. 398

The High Court of Punjab and Haryana allowed the C.W.P. No.6675 of 1996 vide its order dated 08.12.1997 and set aside the order of dismissal passed against the applicant. Against the aforesaid order of the High Court the State of Haryana filed Letters Patent Appeal before the Division Bench of the High Court. The Division Bench did not grant any stay of the order dated 08.12.1997. The applicant filed contempt petition as the respondents did not comply with the order dated 08.12.1997 passed by the High Court of Punjab and Haryana in C.W.P. No.6675 of 1996. Thereafter, in compliance of the aforesaid order the applicant was taken back in the services. On 10.11.1998 the Division Bench of the High Court allowed the Letters Patent Appeal and set aside the order dated 08.12.1997 and remanded the matter to the learned Single Judge for deciding the writ petition afresh. On 15.01.1999 the applicant was again dismissed from the service. It appears that Inspector Ramphal had filed writ petition bearing No.6675 of 1996 seeking reinstatement. That writ petition was pending in January and December, 2000 when orders of reinstatement were passed. Thus orders of reinstatement has been passed even though the matter was sub-judice before the Punjab and Haryana High Court. The writ petition was pending even when this Court dealt with the criminal miscellaneous petition. It was not pointed out to this Court that a writ petition was pending before the Punjab and Haryana High Court. Had it been pointed out this Court could have directed that orders of this Court be brought to the notice of Punjab and Haryana High Court. Writ Petition No.6675 of 1996 reached for hearing before the Punjab and Haryana High Court on 9th December, 2002. The Punjab and Haryana High Court by order of the same date has quashed the orders dated 29th March, 1996 and 27th April, 1996. Reading of the order dated 9th December, 2002 makes it clear that the only reason why the termination of service has been quashed is because an impression was given to the Punjab and Haryana High Court that the dismissal and reversion orders were only passed because of the conviction of the officer and that after acquittal there is no ground on which termination and reversion could be sustained. A reading of the order dated 9th December, 2002 shows that Punjab and Haryana High Court was not informed that an enquiry committee had found the officers guilty of dereliction of duty. 413

The High Court thus accepts the well established rule of Hindu law of stridhan that that articles mentioned in Category (a) are meant for the exclusive use of the bride and are her personal property. Unfortunately, however, with regard to Category (c) while discussing the question of the rights of the bride to her exclusive property upon her entry in her matrimonial home, the High Court has wrongly applied what it had previously held with regard to Category (a). In one breath the Judges say that the bride is entitled to retain her ownership irrespective of her entry and presence in the matrimonial home and in the other they come to the conclusion that the moment a married woman enters her matrimonial home all her properties including her exclusive property become a joint property by a fiction of being placed in the custody of her husband or his relations. While we are agree with the first part of the categories as extracted above we find it difficult to accept the other propositions adumbrated at a later stage of the judgment which have been fully discussed by us. We fail to understand how the High Court while finding that joint enjoyment does not divest a Hindu wife of her exclusive ownership still chose to treat it a joint property of the two spouses by the mere factum of joint user. The two views expressed by the High Court stand contradicted by its own findings and are wholly understandable. Thus, a detailed analysis of the judgment of the Punjab and Haryana High Court in Vinod Kumar's case (supra) appears to us to be a mass of confusion and lacks both clarity and coherence. We are, therefore, unable to uphold or support the view of the High Court that upon entering the matrimonial home the ownership of stridhan property becomes joint with her husband or his relations. To this extent, therefore, we overrule this decision and hold that with regard to the stridhan property of a married woman, even if it is placed in the custody of her husband or in-laws they would be deemed to be trustees and bound to return the same if and when demanded by her. Taking all the allegations made above by no stretch of imagination can it be said that the allegations do not prima facie amount to an offence of criminal breach of trust against the respondent. 401

The State Government although on its own showing was inclined to agree with the views of the High Court and with the recommendation made by it, however, referred the case to the Haryana Public Service Commission for advice purporting to act under Article 320(3)(c) of the Constitution. The Commission advised that no case had been made out against the officer and that he should be exonerated. The Governor accepted the advice of the Commission and passed the order on August 24, 1968, reinstating the officer in service with immediate effect. The High Court was requested by the Government to post the officer on his reinstatement. The High Court did not issue any posting order to the officer as it was of the opinion that the order of the Government was illegal for the vice of consultation with the Public Service Commission and for accepting its advice disregarding the recommendation of the High Court. The High Court requested the Government to review its order but the Government did not take any action on that suggestion. Since the High Court refused to pass any posting order notwithstanding his several prayers the officer preferred in the High Court of Punjab and Haryana a petition under Article 226 of the Constitution on July 12, 1971 praying for a Writ of Mandamus directing the High Court to issue an appropriate order of posting and also for a mandamus directing the Government to disburse full salary to the officer including the salary for the period under suspension and other consequential reliefs. The State of Punjab was reorganized into States of Punjab, Haryana and Himachal Pradesh to begin with, was a Union Territory and was given the status of full statehood in 1970. Since employees of the composite States of Punjab were taken in various departments of the State of Himachal Pradesh in order to safeguard the seniority, pay-scales etc., the State of Himachal Pradesh followed the Punjab pattern of pay-scales. After attaining the status of full statehood, the High Court of Himachal Pradesh formulated its own rules and regulations for its employees. It adopted the pattern of Punjab and Haryana High Court rules of their employees. When Punjab and Haryana High Court gave effect to certain portion of its rules from 25.09.1985 by notification dated 23.01.1986 as a result of which re-designation of the posts of Senior Translators and Junior Translators were equated to the posts in Punjab Civil Secretariat, the Himachal Pradesh High Court similar effect was given to in its rules for its employees. 420