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Patron in Chief

The Hon'ble Mr.
T.S. Sivagnanam
The Chief Justice,
High Court at Calcutta

Editorial Board

The Hon'ble Mr. Justice
I.P. Mukerji
Chairperson,
Hon'ble Committee for WBJA

The Hon'ble Mr. Justice
Arijit Banerjee
Member,
Hon'ble Committee for WBJA

The Hon'ble Justice
Ananya Bandyopadhyay
Member,
Hon'ble Committee for WBJA

Sukumar Ray, WBJS
Director, WBJA (as on 29.03.2023)

INAUGURAL ISSUE

NEWS LETTER

WEST BENGAL JUDICIAL ACADEMY



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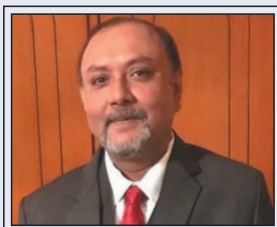


The Hon'ble Mr. Justice T.S. Sivagnanam
Chief Justice, High Court at Calcutta

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Lokesh Pathak

Registrar Protocol, High Court
at Calcutta, Assisting the Hon'ble
Committee for WBJA

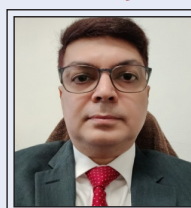
OFFICERS OF WBJA (as on 29th March, 2023)



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Sanjib Daruka, WBJA
Additional Director



Ranabir Mohan Chatterjee, WBJA
Administrative Officer

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Rajib Roy Chowdhury, DEO
Susanta Dey, Accounts Clerk
Sourav Chatterjee (Peon)
Haru Paul (Peon)
Goutam Bhowmick
Susanta Bag
Manas Das Mohari

Greetings from the Chairperson

This is the inaugural issue of the newsletter of our Judicial Academy which is proposed to be published once every three months.

As Chief Justice Prakash Shrivastava, High Court at Calcutta was about to retire when this newsletter was under preparation, we requested him to inaugurate a draft of the proposed publication which he was pleased to do on 29th March, 2023. Now it is updated till going to the Press.

The Judicial Academy is seen by me as a temple. Not only for me, it is so for all our High Court judges and the judges and judicial magistrates of the district judiciary. It is a shrine for learning, for exchange of thoughts, ideas, views and visions. It is also an institution which like a catalyst catapults our plans, programmes and projects for a better judiciary.

The Judicial Academy has got another responsibility. Unlike a commercial organization, our judiciary does not maintain a publicity or public relations department. Yet the persons involved with the institution or affected by its performance do have the right to know the activities that are taking place within it. Hence, the Judicial Academy through its publication should work as an organ for dissemination of information regarding key events and developments that take place in the High Court, district judiciary and in the Academy to all stakeholders. I am happy to state that our wonderful institution is about to undergo further expansion. The Academy has proposed the following projects :-

- (i) A G+2 storeyed activity centre with electrical sub-station building;
- (ii) A vertical extension of the hostel building from 4th floor to 7th floor;
- (iii) A G+4 storied building for Director, Additional Director's quarter and Guest House with (G+5) storeys' foundation;
- (iv) A G+4 storied Auditorium building within the campus of the Academy.

I am also pleased to state that the administrative approval for construction of a lift block of one passenger and one goods lift for the G+11 storeyed building was obtained on 8th February, 2021 at an estimated cost of about Rs.3 crores. They will be soon functional.

The projects have received administrative approval and are expected to start once financial sanction is also granted by the state government.

We invite your views and shall be very happy to consider them for our betterment.

Dated: 24th September, 2023



WEST BENGAL JUDICIAL ACADEMY



BUILDING



THE STATUE OF THE LADY OF JUSTICE IN FRONT OF THE MAIN BUILDING



ENTRANCE TO THE MAIN BUILDING CAMPUS



LANDSCAPES AND GREENERIES INSIDE THE ACADEMY PREMISES



RECEPTION ROOM AT THE MAIN BUILDING



LIBRARY



STUDY ROOM FOR THE TRAINEE OFFICERS



GROUP PHOTOS WITH HON'BLE JUDGES OF DIFFERENT PROGRAMMES AT THE STUDY ROOM



WAY TO THE LIFT AT THE GROUND FLOOR, MAIN BUILDING



SCULPTURE WORK ON THE GROUND FLOOR



WALL PAINTING ON THE FIRST FLOOR



VIP LOUNGE FOR THE HON'BLE JUDGES ON THE FIRST FLOOR



CONFERENCE HALLS ON THE FIRST FLOOR, MAIN BUILDING



ACADEMIC HALLS ON THE 4TH FLOOR AND 5TH FLOOR OF THE MAIN BUILDING



WAY TOWARDS THE DINING HALL

DINING HALL FOR THE HON'BLE JUDGES AND OTHER DIGNITARIES ON THE 4TH FLOOR



FACULTY LOUNGE ON THE 5TH FLOOR OF THE MAIN BUILDING



THE DIRECTOR'S CHAMBER IN THE MAIN BUILDING



STAFF ROOM IN THE MAIN BUILDING



CLUB HOUSE ON THE GROUND FLOOR



CLUB HOUSE ON THE FIRST FLOOR



**OVERVIEW OF THE CLUB HOUSE BUILDING ALONG WITH THE HOSTEL BUILDINGS FOR
TRAINEE OFFICERS**



RECEPTION ROOM IN THE HOSTEL BUILDING



DINING HALL FOR THE TRAINEE OFFICERS



HOSTEL ROOM FOR THE TRAINEE OFFICERS



INDOOR GAMES ROOM



GYMNASIUM IN THE HOSTEL BUILDING

INAUGURATION OF THE PERMANENT CAMPUS OF WEST BENGAL JUDICIAL ACADEMY ON 25.02.2017



Mr. Keshari Nath Tripathi, The Hon'ble Governor of West Bengal, The Hon'ble Judges of the Supreme Court Mr. Justice Pinaki Chandra Ghose & Mr. Justice Amitava Roy and the Hon'ble Judges of The High Court gracing the occasion



Unveiling of the Plaque of the permanent campus of West Bengal Judicial Academy by The Chief Guest, The Hon'ble Mr. Justice Pinaki Chandra Ghose, Judge, Supreme Court in the presence of the Hon'ble Mr. Justice Amitava Roy, Judge, Supreme Court of India and the Hon'ble Manjula Chellur, The Chief Justice, Bombay High Court



National Anthem followed by the inaugural speech by the Director, Ms. Ananya Bandyopadhyay



Speech delivered by the Hon'ble Mr. Justice Pinaki Chandra Ghose, Judge, Supreme Court and Mr. Keshari Nath Tripathi, the Hon'ble Governor of West Bengal, during this auspicious occasion



Planting of saplings inside the Academy campus by Mr. Keshari Nath Tripathi, The Hon'ble Governor Of West Bengal, The Hon'ble Mr. Justice Pinaki Chandra Ghose, Judge, Supreme Court Of India, The Hon'ble Mr. Justice Amitava Roy, Judge, Supreme Court Of India, The Hon'ble Justice Ruma Pal, former Judge, Supreme Court Of India in presence of The Hon'ble Justice Nishita Mhatre, Judge, High Court at Calcutta

A PEEP INTO OUR PAST- SOME REFLECTIONS



Speech delivered by The Hon'ble Mr. Justice Aniruddha Bose, Judge, High Court at Calcutta in one day Training Programme on "Advances in Forensic Science: Best Practices for Successful Investigation, Prosecution and Adjudication of Cyber Crimes" held on 28.05.2017



The Hon'ble Mr. Justice Joymalya Bagchi, Judge, High Court at Calcutta addressing the Judicial Officers in presence of Mr. Talwant Singh, District & Sessions Judge, Delhi, Dr. Gandhi P C Kaza, Chairman, Truth Labs and Mr. H.K.Kusumakar, IPS, Additional Commissioner of Police, Kolkata in a one day Training Programme on "Advances in Forensic Science: Best Practices for Successful Investigation, Prosecution and Adjudication of Cyber Crimes" held on 28.05.2017



Workshop on “Compensation to Victims” held on 17th June, 2017 followed by felicitation of The Hon’ble Mr. Justice Aniruddha Bose, Judge, High Court at Calcutta



The Hon’ble Mr. Justice Aniruddha Bose, Judge, High Court at Calcutta addressing the audience in the Workshop on “Compensation to Victims” on 17th June, 2017



Inaugural speech delivered by Ms. Ananya Bandyopadhyay, Director, WBJA followed by felicitation of The Hon'ble Mr. Justice Madan B. Lokur, Judge, Supreme Court Of India during the Refresher Course for Master Trainer Judicial Officers on "Ubuntu Operation System, Libre Office Suite, Case Information Software (Ver. 2.0) and NJDG" held from 14.07.2017 to 16.07.2017



Address by The Hon'ble Mr. Justice Madan B. Lokur, Judge, Supreme Court Of India during the Refresher Course for Master Trainer Judicial Officers on "Ubuntu Operation System, Libre Office Suite, Case Information Software (Ver. 2.0) and NJDG" on 14.07.2017



Planting of saplings by The Hon'ble Mr. Justice Madan B. Lokur, Judge, Supreme Court Of India on 14.07.2017



Group Photo of the officers with The Hon'ble Mr. Justice Madan B. Lokur, Judge, Supreme Court Of India in the Refresher Course for Master Trainer Judicial Officers on "Ubuntu Operation System, Libre Office Suite, Case Information Software (Ver. 2.0) and NJDG" held from 14.07.2017 to 16.07.2017



The Hon'ble Mr. Justice Harish Tandon, Judge, High Court at Calcutta addressing the District Judges in one day Sensitization Workshop on "Adoption Related Issues" held on 06.08.2017



Mr. Supriya Sarkar, Joint Director, Directorate of Child Rights & Trafficking interacting with the District Judges of West Bengal in one day Sensitization Workshop on “Adoption Related Issues” held on 06.08.2017



Group Photo of the officers in the training programme for Bangladesh Judicial Officers held from 16.11.2017 to 24.11.2017 at the West Bengal Judicial Academy



Group Photo of the officers in the programme on sharing best practices for Civil Judge (Junior Division) from Tamilnadu organized by West Bengal Judicial Academy from 03.01.2018 to 07.01.2018



Address by The Hon'ble Mr. Justice Aniruddha Bose, Judge, High Court at Calcutta on 24.03.2018 in the Judicial Colloquium on "Prevention of Human Trafficking to Sensitize the Judicial Officers and other Stakeholders"



Mr. Kundan Kumar Kumai, Director, WBJA addressing the audience in one day Sensitization Programme on “Adoption and Law Relating to Adoption” in presence of The Hon’ble Mr. Justice Debasish Kar Gupta, Judge, High Court at Calcutta held on 11.08.2018



The Hon’ble Mr. Justice Biswanath Somadder, Judge, High Court, Calcutta delivering a speech at the “Regional Seminar Cum Workshop On Mediation” held on 9th May, 2019 at WBJA



Welcome address by The Hon'ble Mr. Justice Harish Tandon, Judge, High Court at Calcutta & Member, Juvenile Justice Committee in the programme for "Inauguration of Child Friendly Court" held on 15.09.2018



Address by The Hon'ble Mr. Justice Madan B. Lokur, Judge, Supreme Court Of India in the programme for "Inauguration of Child Friendly Court" held on 15.09.2018



The Hon'ble Mr. Justice Dipankar Datta, The Hon'ble Mr. Justice Sanjib Banerjee, The Hon'ble Mr. Justice Harish Tandon, The Hon'ble Mr. Justice Soumen Sen & Member, Juvenile Justice Committee, The Hon'ble Justice Nadira Patherya & Chairperson, Juvenile Justice Committee and other companion Judges of The Calcutta High Court and other dignitaries attending the programme for "Inauguration of Child Friendly Court" held on 15.09.2018



Release of the Handbook on "Child Psychology for Judicial Officers" by The Hon'ble Mr. Justice Madan B. Lokur, Judge, Supreme Court Of India in presence of Dr. Yasmin Ali Haque, Country Representative, UNICEF in the programme for "Inauguration of Child Friendly Court" held on 15.09.2018



The Hon'ble Mr. Justice Arun Kumar Mishra, Judge, Supreme Court Of India with The Hon'ble Mr. Thottathil B. Radhakrishnan, Chief Justice, High Court at Calcutta and other Hon'ble Judges Of Calcutta High Court, The Hon'ble Mr. Justice Dipankar Datta and The Hon'ble Mr. Justice Sanjib Banerjee attending the seminar on "Justicing in the Modern Era : The Core Values and New Techniques" On 21/12/2019



Speech delivered by The Hon'ble Mr. Justice Dipankar Datta, Judge, High Court, Calcutta at the programme Titled "National Youth Day, 2020 : Life After Acid Attack" organised by WBSLSA, held at the West Bengal Judicial Academy on 12.01.2020

COVID AND OUR ONWARD MARCH – GLIMPSES

PICTURES IN THE CAPTION



Inaugural Ceremony of Online Training Classes and Webinars through Video Linkage at the Conference Hall on 28-09-2020 in the august presence of The Hon'ble Mr. Thottathil B. Radhakrishnan, The Chief Justice, High Court at Calcutta and other Hon'ble Companion Judges of Calcutta High Court followed by lighting of the Ceremonial Lamp by The Hon'ble The Chief Justice, The Hon'ble Mr. Justice Sanjib Banerjee and The Hon'ble Mr. Justice I.P.Mukerji, Judges, High Court, Calcutta



The Hon'ble Mr. Justice Subrata Talukdar, The Hon'ble Mr. Justice Joymalya Bagchi, The Hon'ble Mr. Justice Arijit Banerjee and The Hon'ble Mr. Justice Shiv Kant Prasad, Judges of Calcutta High Court cum Committee Members of WBJA, attending the Inaugural Ceremony of Online Training Classes and Webinars on 28-09-2020



Illumination of Ceremonial Lamp by The Hon'ble Mr. Thottathil B. Radhakrishnan, The Chief Justice, High Court at Calcutta in the Sensitisation Programme on "POCSO & Juvenile Justice Act" held on 06.12.2020 in presence of The Hon'ble Mr. Justice Sanjib Banerjee, The Hon'ble Mr. Justice I.P.Mukerji, The Hon'ble Mr. Justice Harish Tandon and The Hon'ble Mr. Justice Soumen Sen, Judges, High Court, Calcutta



Colloquium on "Bail and Anticipatory Bail - Constitutional Sanction and the Principles Governing their Grant" held on 13th December, 2020 and speech delivered by The Hon'ble Mr. Justice I.P.Mukerji, Judge, High Court, Calcutta



Colloquium on "Law Governing Grant of Interim Order in Suits, Writ Applications and Intellectual Property Matters" through Video Linkage held on 17th January, 2021



Address by The Hon'ble Justice Indira Banerjee, Judge, Hon'ble Supreme Court Of India on "Judicial Ethics" in the Colloquium held on 06.02.2021 in the august presence of The Hon'ble Mr. Rajesh Bindal, Acting Chief Justice, High Court at Calcutta, The Hon'ble Mr. Justice I.P. Mukerji, Judge, High Court at Calcutta and other Hon'ble Companion Judges of the Calcutta High Court



Address by The Hon'ble Mr. Rajesh Bindal, Acting Chief Justice, High Court at Calcutta in the Colloquium on "Judicial Ethics" held on 06.02.2021

Events on Restoration of Normalcy

- On **27.09.2022**, the inaugural programme for switch over from on line to offline mode was organized. The Hon'ble Mr. Prakash Shrivastava, the Chief Justice, the Hon'ble Mr. Justice T.S Shivagnanam, the Hon'ble Mr. Justice Subrata Talukdar, the Hon'ble Mr. Justice Debangsu Basak and other Hon'ble Judges of the High Court at Calcutta graced the occasion.
- This programme was followed by a training session of Judicial Officers on "Judgment Writing" conducted by Justice Madhumati Mitra, former judge of the High Court at Calcutta.



The Hon'ble Mr. Justice Prakash Shrivastava, Chief Justice, Calcutta High Court addressing the Audience on 27.09.2022





The Hon'ble Mr. Justice T.S. Sivagnanam, Judge, Calcutta High Court addressing the Audience on 27.09.2022



Vote of Thanks by Sukumar Ray, Director, West Bengal Judicial Academy on 27.09.2022



- A 14 days' training programme in physical mode for 21 officers in the rank of District Judge (Entry-level) was started on 28.11.2022. During this training period, various subjects and topics were discussed by the Resource Persons comprising mainly of the Hon'ble Judges of the High Court at Calcutta, Forensic Expert, Special Excise Commissioner etc.



Group Photo of the Ld. District Judges (Entry Level) during their Induction Level Training at the Academy



The Hon'ble Mr. Justice Joymalya Bagchi, Judge, High Court at Calcutta conducting a training session of the District Judges (Entry Level) on "Culpable Homicide and Murder."



- On 5th January 2023, Induction Level training of civil judges (junior division) for 26 Judicial Officers (on probation) was started and it continued till 4th March 2023. This programme covered various training exercises, discussion on Judgment / order writing and deliberation on various Procedural & Substantive laws including sessions on Cyber Laws, Electronic Evidence, Artificial Intelligence & Law, e-Commerce & Copyright Laws, Mobile Forensics etc.

Classes Taken by Resource Persons During Induction Level Training of Civil Judges (Jr. Division)



The Hon'ble Mr. Justice Ranjit Kr. Bag, former Judge, High Court at Calcutta discussing on “ Relevancy & Admissibility of Evidence.”



Group photo of Civil Judges (Junior Division) Batch 2020 with The Hon'ble Mr. Justice Tapan Kumar Dutt, former Judge, Calcutta High Court during their Induction Level Training





Group photo of Civil Judges (Junior Division) Batch 2020 with The Hon'ble Mr. Justice Jyotirmoy Bhattacharya, former Chief Justice of Calcutta High Court and the Hon'ble Chairperson, West Bengal Human Rights Commission during their Induction Level Training



The Hon'ble Mr. Justice Tirthankar Ghosh, Judge, High Court at Calcutta interacting with the Civil Judges (Junior Division) Batch 2020 during the Induction Level Training on the "Laws of Bail" with reference to Satender Kumar Antil case





The Hon'ble Mr. Justice Ajoy Kr. Mukherjee, Judge, High Court at Calcutta interacting with the Civil Judges (Junior Division) Batch 2020 during the Induction Level Training on "Civil Rules & Orders"



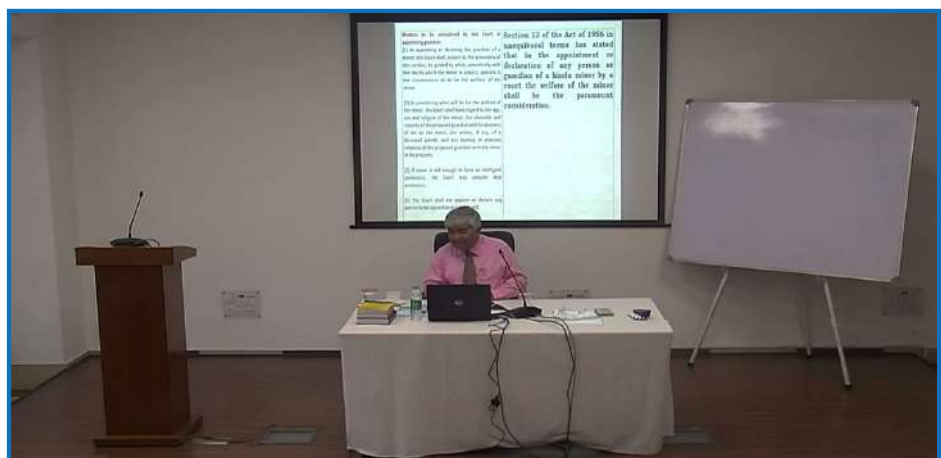
Dr. Shyamal Gupta, Judge-Mediator, State Consumer Dispute Redressal Commission and former District Judge, conducting a session with the Civil Judges (Junior Division) Batch 2020 during the Induction Level Training on "Judicial Ethics"



- On 27th April 2023, Induction Level training of District Judge (Entry Level) (Batch 2021) for 14 Judicial Officers was started and it continued till 11th May 2023. This programme covered various training exercises, discussion and deliberation on NDPS Act, Electricity Act, Custody Rights, Prevention of Corruption Act, Electronic Evidence, Matrimonial Laws, Motor Vehicles Act, Criminal Appeal & Revision, Sessions Trial, Probate Proceedings, Evaluation of Post mortem and injury reports, Trial of cases under POCSO Acts, etc.



The Hon'ble Mr. Justice Harish Tandon, Judge, High Court at Calcutta interacting with the District Judge (Entry Level) Officers Batch 2021 in the Induction Level Training on "Probate Proceedings"



The Hon'ble Mr. Justice Soumen Sen, Judge, High Court at Calcutta interacting with the District Judge (Entry Level) Officers Batch 2021 in the Induction Level Training on "Custody Rights"





The Hon'ble Mr. Justice Sahidullah Munshi, former Judge, High Court at Calcutta interacting with the District Judge (Entry Level) Officers Batch 2021 in the Induction Level Training on "Matrimonial Laws"



The Hon'ble Justice Madhumati Mitra, former Judge, High Court at Calcutta discussing with the District Judge (Entry Level) Officers Batch 2021 in the Induction Level Training discussing on "Prevention of Corruption Act"



The Hon'ble Justice Ranjit Kr. Bag, former Judge, High Court at Calcutta discussing with the District Judge (Entry Level) Officers Batch 2021 in the Induction Level Training on "Dying Declaration & Retracted Confession"





The Hon'ble Mr. Justice Partha Sakha Datta, former Judge, High Court at Calcutta interacting with the District Judge (Entry Level) Officers Batch 2021 in the Induction Level Training on "Arbitration Proceedings"



Group Photo of Officers in the Induction Level Training Programme for District Judge (Entry Level) Batch 2021 with The Hon'ble Mr. Justice Harish Tandon, Judge, High Court at Calcutta



- On 27th June 2023, Induction Level training [Batch 2019] [Phase-II] of Civil Judges (Junior Division) for 34 Judicial Officers was started and it continued till 19th July 2023. This programme covered various training exercises, discussion on Judgment / order writing and deliberation on various Procedural & Substantive laws including sessions on Land Laws, Forest Laws, Alternative Dispute Resolution, Electronic Evidence, Corroboration and Contradiction, Mobile Forensics, JJ Act, Laws of Injunction, Bail matters, Ubuntu-CIS-ECT, PWDV Act, Arms Act, Negotiable Instruments Act, West Bengal Excise Act etc.



The Hon'ble Mr. Justice Arindam Mukherjee, Judge, High Court at Calcutta interacting with the Civil Judges (Junior Division) Batch 2019 during the Induction Level Training (Phase II) on "Amendments of Pleadings"



The Hon'ble Mr. Justice Sabyasachi Bhattacharya, Judge, High Court at Calcutta interacting with the Civil Judges (Junior Division) Batch 2019 during the Induction Level Training (Phase II) on "Laws of Injunction"





The Hon'ble Mr. Justice Biswajit Basu, Judge, High Court at Calcutta interacting with the Civil Judges (Junior Division) Batch 2019 during the Induction Level Training (Phase II) on "Judgment Writing"



The Hon'ble Mr. Justice Tirthankar Ghosh, Judge, High Court at Calcutta interacting with the Civil Judges (Junior Division) Batch 2019 during the Induction Level Training (Phase II) on "Corroboration and Contradiction"





The Hon'ble Mr. Justice Ajoy Kr. Mukherjee, Judge, High Court at Calcutta interacting with the Civil Judges (Junior Division) Batch 2019 during the Induction Level Training (Phase II) on "Order-IX of CPC"



Group Photo of Officers in the Induction Level Training Programme (Phase-II) for Civil Judge (Junior Division) Batch 2019 with The Hon'ble Mr. Justice Arindam Mukherjee and The Hon'ble Mr. Justice Biswajit Basu, Judges, High Court at Calcutta

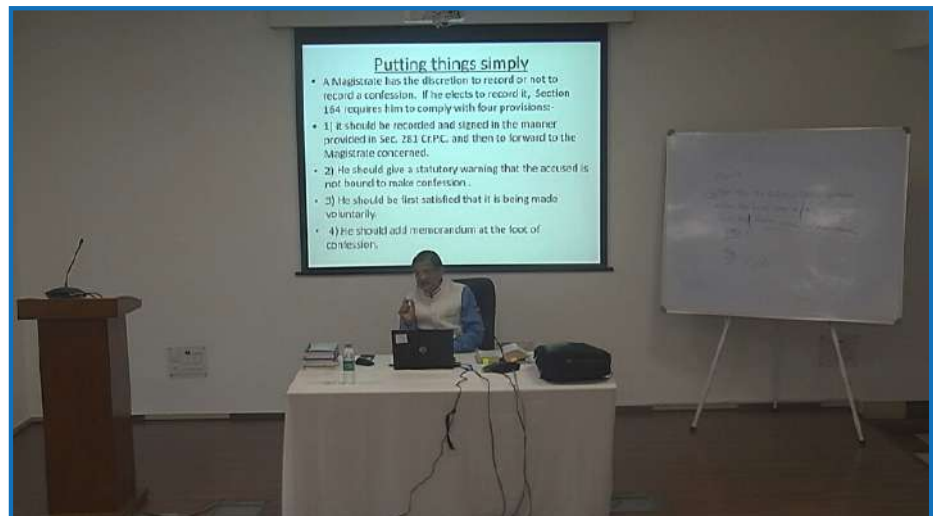


**Offline Refresher Course/Sensitization Programmes
conducted by WBJA:-**

1. Refresher Course on “Different aspects of Code of Criminal Procedure” for Magistrates of all ranks held on 23.07.2023 & 24.07.2023.



The Hon’ble Mr. Justice Tirthankar Ghosh, Judge, High Court at Calcutta interacting with the Magistrates of all ranks on “Role of Magistrates in Criminal Cases”



The Hon’ble Mr. Justice Ajoy Kr. Mukherjee, Hon’ble Judge, High Court at Calcutta interacting with the Magistrates of all ranks on “Examination of accused u/s. 313 Cr.P.C.”



2. Refresher Course on “Different aspects of Code of Criminal Procedure” for Judicial Magistrates held on 11.08.2023 & 12.08.2023.



The Hon'ble Mr. Justice Apurba Sinha Ray, Judge, High Court at Calcutta interacting with the Judicial Magistrates on “Recording of Statement and Confession u/s. 164 of Cr.P.C.”

3. Refresher Course for Civil Judge (Junior Division) on “Different Aspects of CPC and other Civil Laws” conducted from 17.08.2023 to 19.08.2023.



The Hon'ble Mr. Justice Hiranmay Bhattacharyya, Judge, High Court at Calcutta interacting with the Civil Judges (Junior Division) on “Law of Injunction”





The Hon'ble Justice Shampa Sarkar, Judge, High Court at Calcutta interacting with the Civil Judges (Junior Division) on "Amendments of Pleadings"



Group Photo of Officers in the Refresher Course on "Different Aspects of CPC and other Civil Laws" for Civil Judge (Junior Division) with The Hon'ble Justice Shampa Sarkar, Judge, High Court at Calcutta



Group Photo of Officers in the Refresher Course on "Different Aspects of CPC and other Civil Laws" for Civil Judge (Junior Division) with The Hon'ble Mr. Justice Hiranmay Bhattacharyya, Judge, High Court at Calcutta



4. Refresher Course for Civil Judge (Senior Division) on “Different Aspects of CPC and other Civil Laws” conducted from 24.08.2023 to 26.08.2023.



The Hon’ble Mr. Justice Sahidullah Munshi, former Judge, High Court at Calcutta interacting with the Civil Judges (Senior Division) officers on “Limitation Act”



The Hon’ble Mr. Justice Sabyasachi Bhattacharya, Judge, High Court at Calcutta interacting with the Civil Judges (Senior Division) on “Declaratory Suits”



5. Master Trainer Programme for new Master Trainer Judicial Officers held on 28.08.2023 & 29.08.2023 at WBJA.



The Training Sessions on “UBUNTU-CIS-ECT” conducted by Core Master Trainer Judicial Officers Mr. Syed Dilwar Hossain, Registrar, Waqf Tribunal and Mr. Maniklal Jana, Secretary, DLSA, Barasat for new Master Trainer Judicial Officers



6. Refresher Course on “Different aspects of Code of Criminal Procedure” for Judicial Magistrates / Metropolitan Magistrates conducted from 31.08.2023 to 02.09.2023.



The Hon'ble Mr. Justice Apurba Sinha Ray, Judge, High Court at Calcutta interacting with the Judicial Magistrates / Metropolitan Magistrates on “Recording of Statement and Confession by Magistrates”



Mr. Somesh Chandra Pal, former District Judge interacting with the Judicial Magistrates / Metropolitan Magistrates on “Examination of accused u/s. 313 Cr.P.C.”



Group Photo of Officers in the Refresher Course on “Different aspects of Code of Criminal Procedure” for Judicial Magistrates / Metropolitan Magistrates with The Hon'ble Mr. Justice Ajoy Kr. Mukherjee, Judge, High Court at Calcutta



7. Refresher Course for Civil Judge (Junior Division) on “Different Aspects of CPC and other Civil Laws” conducted from 14.09.2023 to 16.09.2023.



Group Photo of Officers in the Refresher Course on “Different Aspects of CPC and other Civil Laws” for Civil Judge (Junior Division) with The Hon’ble Mr. Justice Biswajit Basu, Judge, High Court at Calcutta



Group Photo of Officers in the Refresher Course on “Different Aspects of CPC and other Civil Laws” for Civil Judge (Junior Division) with The Hon’ble Mr. Justice Tapan Kumar Dutt, former Judge, High Court at Calcutta



8. Refresher Course on different aspects of Civil and Criminal Laws for the Additional District & Sessions Judges conducted from 27.09.2023 to 30.09.2023.



Dr. Sobhan Kr. Das, former Head of the Department, Forensic Medicine & Toxicology, R.G.Kar Medical College & Hospital interacting with the Additional District Judges on “Medico Legal aspects of Sexual Offences with special emphasis on POCSO matters”



Group Photo of Officers in the Refresher Course on “Different aspects of Civil and Criminal Laws” for Additional District & Sessions Judges with The Hon’ble Mr. Justice Partha Sakha Datta, former Judge, High Court at Calcutta



SPECIAL PROGRAMMES CONDUCTED BY WBJA

- One day Seminar on “Principle of Diversion” held on 02.04.2023 conducted by West Bengal Commission for Protection of Child Rights, Government of West Bengal in collaboration with WBJA in the august presence of Hon’ble Justice Ananya Bandyopadhyay, Judge, High Court at Calcutta, Hon’ble Dr. Shashi Panja, Minister in charge, Department of Women and Child Development and Social Welfare, West Bengal and other dignitaries.



The Hon’ble Justice Ananya Bandyopadhyay, Judge, High Court at Calcutta addressing the participating officers on 02.04.2023



Representatives of different groups in the programme on 02.04.2023



- Sensitisation/Orientation Programme for the Secretaries of District Legal Services Authorities held on 20th & 21st of April, 2023 in the august presence of Hon'ble Mr. Justice T.S.Sivagnanam, Acting Chief Justice, High Court at Calcutta and Executive Chairman, State Legal Services Authority, West Bengal.



The Hon'ble Mr. Justice T.S.Sivagnanam, Acting Chief Justice, High Court at Calcutta addressing the Secretaries of District Legal Services Authorities on 20.04.2023



Group photo of the Secretaries of District Legal Services Authorities with The Hon'ble Mr. Justice T.S.Sivagnanam, Acting Chief Justice, High Court at Calcutta on 20.04.2023



- Symposium in both physical and online mode for collecting feedback regarding cases relating to “Human Trafficking” held on 28.06.2023 in the august presence of the Hon’ble Justice Ananya Bandyopadhyay, Judge, High Court at Calcutta, District Judges and Chief Judicial Magistrates of West Bengal and other dignitaries.



The Hon’ble Justice Ananya Bandyopadhyay, Judge, High Court at Calcutta addressing the participating officers on 28.06.2023

- Two Days Residential Training Programme for all the Secretaries, DLSAs held on 27th & 28th July, 2023 in the august presence of the Hon’ble Mr. T.S.Sivagnanam, The Chief Justice, High Court at Calcutta and the Hon’ble Mr. Justice I.P. Mukerji, Judge, High Court, Calcutta.



Inaugural speech by The Hon’ble Mr. T.S.Sivagnanam, The Chief Justice, High Court at Calcutta & Patron-in-Chief, State Legal Services Authorities, West Bengal on 27.07.2023





Keynote Address by The Hon'ble Mr. Justice I.P.Mukerji, Judge, High Court at Calcutta & Executive Chairman, State Legal Services Authorities, West Bengal on 27.07.2023

- Symposium on the Prohibition of Child Marriage Act, 2006 in collaboration with the Women and Child Development and Social Welfare Department, Govt. of West Bengal held on 05.08.2023.



Representatives of the groups making presentation to the audience on 05.08.2023



Officers of different departments engaged in group discussions on 05.08.2023



- State level Multi Stakeholder Consultation on Child in Conflict with Law in West Bengal and Andaman & Nicobar Islands was conducted by the Juvenile Justice Committee, High Court at Calcutta in collaboration with Department of Women and Child Development and Social Welfare, State of West Bengal and UNICEF on 27.08.2023 in the august presence of the Hon'ble Mr. T.S.Sivagnanam, The Chief Justice, High Court at Calcutta, the Hon'ble Mr. Justice I.P. Mukerji, Judge, High Court, Calcutta, the Hon'ble Mr. Justice Harish Tandon, Judge, High Court, Calcutta, the Hon'ble Justice Moushumi Bhattacharya, Judge, High Court, Calcutta and other Hon'ble Companion Judges of Calcutta High Court and other stakeholders.



The Hon'ble Mr. T.S.Sivagnanam, The Chief Justice, High Court at Calcutta & Patron-in-Chief, Juvenile Justice Committee lighting the ceremonial lamp on 27.08.2023



The Hon'ble Mr. Justice I.P.Mukerji, Judge, High Court at Calcutta & the Chairperson, Juvenile Justice Committee lighting the ceremonial lamp on 27.08.2023





Welcome Address by The Hon'ble Mr. Justice I.P.Mukerji, Judge, High Court at Calcutta & the Chairperson, Juvenile Justice Committee on 27.08.2023



Keynote address delivered by The Hon'ble Mr. T.S.Sivagnanam, The Chief Justice, High Court at Calcutta & Patron-in-Chief, Juvenile Justice Committee on 27.08.2023



Vote of Thanks given by The Hon'ble Justice Moushumi Bhattacharya, Judge, High Court at Calcutta & Member, Juvenile Justice Committee on 27.08.2023



Significant High Court Events



Inaugural address by The Hon'ble Dr. Justice D.Y.Chandrachud, The Hon'ble Chief Justice of India in the Virtual Inauguration Ceremony of the New Administrative Block of High Court on 1st March, 2023



Welcome address by The Hon'ble Mr. Prakash Shrivastava, The Chief Justice of the High Court, Calcutta in the Virtual Inauguration Ceremony of the New Administrative Block of High Court and e-Initiatives of The High Court at Calcutta by The Hon'ble Dr. Justice D.Y.Chandrachud, The Hon'ble Chief Justice of India on 1st March, 2023





A brief introduction of various e-Initiatives of the High Court by The Hon'ble Mr. Justice T.S.Sivagnanam, the Hon'ble Chairperson, Computer Committee of the High Court of Calcutta on 1st March, 2023



The Collegium Judges present at the Virtual Inauguration Ceremony of New Administrative Block of High Court on 1st March, 2023



COURSES CONDUCTED BY THE ACADEMY FROM JANUARY, 2023 TILL GOING TO THE PRESS

- Two month long Induction Level Training Programme (Phase I, 2020 batch) for Civil Judges (Junior Division) Officers on Probation from 05.01.2023 to 04.03.2023.
- Online Training Programme on ‘Civil Appeal’ for ADJ, ADJ (FTC) and Civil Judges (Sr. Division) on 20.02.2023 & 21.02.2023.
- Online Workshop on ‘Commercial Courts Act’ for ADJ on 23.02.2023 & 24.02.2023.
- Training Programme on ‘Grant of Bail with special reference to the guidelines given in (i) Siddharth vs. State of UP & (ii) Satender Kumar Antil vs CBI’ for Judicial Magistrates of all ranks on 06.03.2023.
- Online Training Programme on ‘Motor Vehicles Act’ for ADJ on 09.03.2023 & 10.03.2023.
- Online Refresher Course on ‘Medical Jurisprudence’ for Judicial Magistrates/ Metropolitan Magistrates on 13.03.2023 & 14.03.2023.
- Online Training Programme on ‘Trafficking of Women & Children’ for Judicial Magistrates/Metropolitan Magistrates on 16.03.2023.
- Online Training Programme on ‘Information Technology Act’ for Judicial Magistrates of all ranks on 17.03.2023.
- Online Training Programme on ‘Registration Act, Indian Stamp Act’ for Civil Judges (Sr. Division) & Civil Judges (Jr. Division) on 20.03.2023 & 21.03.2023.
- Training Programme on ‘Juvenile Justice Act, 2015’ for Principal Magistrates of Juvenile Justice Board on 24.03.2023 & 25.03.2023.
- Online Workshop on ‘Commercial Courts Act’ for ADJ on 27.03.2023 & 28.03.2023.
- Online Refresher Course on “Cyber Laws” for Judicial Magistrates of all ranks held on 19.04.2023.
- Online Training on “Motivation” for Judicial Officers of all ranks held on 20.04.2023.



- Online Refresher Course on “Indian Succession Act, 1925 with special stress on Probate & Letter of Administration” for Additional District Judges and Additional District Judges (FTC) held on 17.04.2023 & 18.04.2023.
- Online Sensitization Programme on “Trafficking of Women and Children” for Judicial Magistrates including Metropolitan Magistrates held on 19.04.2023.
- Online Training on “The Contempt of Courts Act, 1971 & Disciplinary Proceedings” for Judicial Officers of all ranks held on 17.04.2023 & 18.04.2023.
- Online Refresher Course on “Pre-emption under West Bengal Land Reforms Act, 1955” for Civil Judges (Jr. Divn.) held on 25.04.2023.
- Online Refresher Course on “W.B. Court Fees Act, 1970 & Suits Valuation Act, 1887” for Civil Judges (Sr. Divn.) & Civil Judges (Jr. Divn.) held on 29.04.2023.
- Online Training on “Motivation” for Judicial Officers of all ranks held on 02.05.2023.
- Online Refresher Course on “Power and Duties of Drawing and Disbursing Officer with special emphasis on The W.B. Treasury Rules & The West Bengal Financial Rules” for Civil Judges (Jr. Divn.) held on 03.05.2023 & 04.05.2023.
- Online training on “Mobile Forensic in Criminal Investigation” for Magistrates of all ranks held on 08.05.2023.
- Online Training on “e-Commerce & Copyright violation in Internet” Judicial Officers of all ranks held on 10.05.2023.
- Online training on “Execution in Civil Cases” for Civil Judges (Sr. Divn.) & Civil Judges (Jr. Divn.) held on 11.05.2023 & 12.05.2023.
- Online Refresher Course on “Medical Jurisprudence” for Magistrates of all ranks held on 15.05.2023 & 16.05.2023.
- Online Training Programme on “Discussion on the Law of Bail with special reference to the guidelines in (i) Siddharth vs. State of UP & (ii) Satender Kumar Antil vs. CBI” for Judicial Officers of all ranks held on 17.05.2023 & 18.05.2023.
- Online Training Programme on “Civil Appeal” for the Additional District Judges, Additional District Judges (FTC) & Civil Judges (Sr. Divn.) held on 19.05.2023 & 20.05.2023.



- Online Training Programme on “Registration Act, 1908 & Indian Stamp Act, 1899” for Civil Judges (Sr. Divn.) & Civil Judges (Jr. Divn.) held on 29.05.2023 & 30.05.2023.
- Online Training Programme on “Trial under the Negotiable Instruments Act” for Judicial Magistrates of all ranks held on 30.05.2023 & 31.05.2023.
- Online Training Programme on “Motivation” for Judicial Officers of all ranks held on 01.06.2023.
- Online Sensitization Programme on “Trafficking of Women and Children” for Judicial Magistrates held on 02.06.2023.
- Online Training Programme on “Bengal Money Lenders Act, 1940” for Civil Judges (Sr. Divn.) & Civil Judges (Jr. Divn.) held on 03.06.2023.
- Online Refresher Course on “Effective trial of cases by Tribunal under Motor Vehicles Act with special reference to Gohar Mohammad Case” for Additional District Judges & Additional District Judges (FTC) held on 05.06.2023 & 06.06.2023.
- Online Refresher Course on “Mohammedan Succession Laws” for Civil Judge (Jr. Divn.) held on 12.06.2023 & 13.06.2023.
- Online Training Programme on “The Wildlife (Protection) Act, 1972 & Indian Forest Act, 1927 for Magistrates of all ranks held on 14.06.2023 & 15.06.2023.
- Online Refresher Course on “West Bengal Service Rules” for Judicial Officers of all ranks held on 14.06.2023 & 15.06.2023.
- Online Refresher Course on “Guardians and Wards Act, 1890, and Hindu Minority & Guardianship Act, 1956” for District Judges & Additional District Judges held on 16.06.2023 & 17.06.2023.
- Online Refresher Course on “Electronic Evidence” for Judicial Officers of all ranks held on 19.06.2023.
- Online Refresher Course on “Specific Relief Act, 1963 (Specific Performance of Contract & Declaratory Suits)” for Civil Judges (Sr. Divn.) & Civil Judges (Jr. Divn.) held on 21.06.2023 & 22.06.2023.



- Induction Level Training Programme for District Judge (Entry Level) Officers from 27.04.2023 to 11.05.2023.
- Induction Level Training Programme (Phase-II) 2019 Batch for Civil Judges (Jr. Divn.) from 26.06.2023 to 19.07.2023.
- Refresher Course on “Test Identification Parade, Recording of statement u/s. 164 Cr.P.C., Statement of accused u/s. 313 Cr.P.C., Plea Bargaining Complaint Petition(Sec. 200 to 204 Cr.P.C.)” for Magistrates of all ranks held on 23.07.2023 & 24.07.2023.
- Refresher Course on “Different aspects of Code of Criminal Procedure” for Judicial Magistrates held on 11.08.2023 & 12.08.2023.
- Refresher Course for Civil Judges (Jr. Divn.) on “Different Aspects of CPC and Civil Law” on 17.08.2023, 18.08.2023 & 19.08.2023.
- Refresher Course on “Different Aspects of CPC and other Civil laws for Civil Judges (Senior Division) held on 24.08.2023, 25.08.2023 & 26.08.2023.
- Master Trainer Programme for new Master Trainer Judicial Officers under the Special Drive Training and Outreach Programme of the E-Committee, Supreme Court of India to be held on 28.08.2023 and 29.08.2023.
- Refresher Course on “Different Aspects of Code of Criminal Procedure for JM/MM scheduled to be held from 31.08.2023 to 02.09.2023.
- Refresher Course on “Different Aspects of CPC and Civil Laws” for Civil Judges (Junior Division) held from 14.09.2023 to 16.09.2023.
- Refresher Course on “Different aspects of Civil and Criminal Laws” for ADJ held from 27.09.2023 to 30.09.2023.



COURSES TO BE CONDUCTED BY THE ACADEMY FROM OCTOBER TO DECEMBER, 2023

Course Title OCTOBER, 2023	Course Title NOVEMBER, 2023	Course Title DECEMBER, 2023
<ul style="list-style-type: none"> • Stress Management / Motivation / Judicial Ethics • Refresher Course on Indian Succession Act, 1925 with special stress on Probate & Letter of Administration • Discussion on Civil Rules and Orders • Discussion on Criminal Rules and Orders • Time Management / Court Management/ Case Management & Strategies for disposal of cases & Interlocutory Applications • Training Programme on Summary Trials (Order 37) of CPC & The Partition Act, 1893 • Breach of Protection Order and Remedy u/s 31 PWDV Act; Challenges in execution of order passed under the PWDV Act • Effective Trial of cases by Special Courts under the Prevention of Corruption Act (Physical Mode) • ECT Training Programme (Training Schedule not yet received from e-Committee, Hon'ble Supreme Court of India) • ECT Training Programme (Training Schedule not yet received from e-Committee, Hon'ble Supreme Court of India) 	<ul style="list-style-type: none"> • Stress Management / Motivation / Judicial Ethics • Discussion on the Law of Bail with special reference to the guidelines in (i) Siddharth vs. State of UP & (ii) Satender Kumar Antil vs. CBI • Sensitization Programme on Trafficking of Women and Children • The Negotiable Instruments Act, 1881 • Criminal Rules and Orders • WB Correctional Services Act, 1992 • Civil Appeal • Refresher Course on Mohammedan Succession Laws • Refresher Course on Test Identification parade, Recording of statement u/s. 164 Cr.P.C., Statement of accused u/s. 313 Cr.P.C., Plea Bargaining Complaint Petition (Sections 200 to 204 Cr.P.C.) • Role of District Judges as managerial leaders and policy makers (Physical Mode) • ECT Training Programme (Training Schedule not yet received from e-Committee, Hon'ble Supreme Court of India) • ECT Training Programme (Training Schedule not yet received from e-Committee, Hon'ble Supreme Court of India) 	<ul style="list-style-type: none"> • Phase-II Induction Level Training Programme for Civil Judge (Jr. Divn.) • Online Training Programme on the Commercial Courts Act, 2015 • Refresher Course on Electronic Evidence • Stress Management / Motivation / Judicial Ethics • Refresher Course on Guardians and Wards Act, 1890, and Hindu Minority & Guardianship Act, 1956 • Sensitization Programme on Trafficking of Women and Children • Discussion on Criminal Rules and Orders • WB Correctional Services Act, 1992 • Bengal Money Lenders Act, 1940 • Refresher Course on West Bengal Service Rules • Refresher Course on effective trial of cases by Tribunal under Motor Vehicles Act with special reference to Gohar Mohammad Case • Refresher Course on Specific Relief Act, 1963 (Specific Performance of Contract & Declaratory Suits) • Refresher Course on Mohammedan Succession Laws • Training Programme on The Wildlife (Protection) Act, 1972 & Indian Forest Act, 1927 • Course on Court Procedure • Artificial Intelligence and Law • Refresher Course on trial of NDPS Act cases (Physical Mode) • ECT Training Programme (Training Schedule not yet received from e-Committee, Hon'ble Supreme Court of India) • ECT Training Programme (Training Schedule not yet received from e-Committee, Hon'ble Supreme Court of India)

TOPIC FOR REFLECTION

Inquiry into Custodial Death

Sukumar Ray

Former Director, West Bengal Judicial Academy

The law in this respect has been envisaged in Section 176 of the Code of Criminal Procedure, 1973 and the Guidelines laid down by the National Human Rights Commission in its SOP dated 04.09.2020. It is pertinent to mention that the previous notification/circular of the NHRC wherein it was mentioned that death inquiry is not mandatory in absence of any allegations of any foul play has been revoked.

From bare perusal of the statutory provisions, it appears that the Legislature mentions of two Classes of Magistrates in Section 176 of the Code of Criminal Procedure, 1973. The use of 'Magistrate' & 'Judicial/Metropolitan Magistrate' in the Section seems to have been used to clarify and distinguish the role of the two Magistrates in case of Death / Rape and/or disappearance of a detainee in Judicial/Police Custody.

Reading Section 176 along with Section 174 of the Code of Criminal Procedure, 1973, it appears that on receipt of information of an unnatural death, the Officer in Charge of the Police Station receiving such information has to intimate the nearest Executive Magistrate, who is empowered to hold the Inquest. Bearing in mind the intention of the legislature, it appears that Section 176(3) of the Code of 1973 speaks of the Executive Magistrate and not a Judicial/Metropolitan Magistrate. This seems to be fortified by the observation of the Hon'ble Madras High Court in the decision reported in AIR Online 2019 Mad 2230 (*M. Murugammal v. State Rep. by the Inspector of Police Chennai and Anr.*) wherein His Lordship held:

"2. Section 174 of Criminal Procedure Code contemplates that when an officer incharge of the police station receives information that a person committed suicide or otherwise, he shall immediately give intimation thereof to the nearest Executive Magistrate empowered to hold inquests, and thereafter he can proceed in the manner provided under Section 174 Cr.P.C.



3. *In the instant case, the status report filed by the respondent police does not reveal that such information was given to the Executive Magistrate. The requirement under Section 174 Cr.P.C., for intimation to the Executive Magistrate by the Investigating Officer is mandatory in nature and in the absence of such intimation, the further course of inquest taken by the respondent police would be rendered as invalid.....”*

In another case of death of a woman in the residence of her in-laws in suspicious circumstances, the Hon’ble Bombay High Court in the decision reported in 1997 Cri.L.J. 2713 (*Dayaram Chandramohan Kanswal vs. Inspector of Police Kapurbawdi Police Station Thane and another*) wherein His Lordships while discussing the procedure of inquest held:

“13. In our view, the petitioner has every justification to feel aggrieved about the manner in which the police have carried out the investigation. It is discrepant in more than one ways and we may only illustrate a few aspects.

i) Despite the mandatory provisions of Sections 174 and 176 of the Code of Criminal Procedure, no information was given to the nearest Executive Magistrate, though admittedly it was a case of a death of a woman within seven years of marriage and no less than the petitioner, father of the deceased, had alleged harassment and case of dowry death.....”

The Hon’ble Supreme Court in the decision reported in AIR 2014 SC 394 (*Madhu alias Madhuranatha and Anr vs. State of Karnataka*) while discussing a situation of suspicious death wherein the dead body had been cremated prior to inquest, explained the ambit of Inquest as follows:

“Sub-section (1) of Section 174, Cr. P. C. only puts an obligation on the part of the IO to intimate the Executive Magistrate empowered to hold inquest but there is nothing in law which provides that investigation cannot be carried out without his permission in writing or in his absence. Even otherwise, the provision stands qualified ‘unless otherwise directed by any rule prescribed by the State Government, or by any general or special order of the District or Sub-divisional Magistrate.’ The object of the inquest proceeding is merely to ascertain whether a person has died under unnatural circumstances or an unnatural death and if so, what is the cause of death. Moreso, the inquest report is not a piece of substantive



evidence and can be utilised only for contradicting the witnesses to the inquest examined during the trial. Neither the inquest report nor the post-mortem report can be termed as basic or substantive evidence and thus, any discrepancy occurring therein cannot be termed as fatal or suspicious circumstance which would warrant benefit of doubt to the accused.”

The Hon’ble Gauhati High Court while discussing a case of death of a bride within 07 months of her marriage highlighted the duties of an Executive Magistrate and Investigating Officer in case of an unnatural death as follows:

“.....But Section 176 of CrPC clearly provides when a woman commits suicide within seven years of her marriage as provided in sub-section (3) of Section 174 of CrPC, it is the duty of the nearest Magistrate, so empowered, to hold an inquiry into the cause of death either instead of or in addition to investigation held by the Police Officer under Section 174 of CrPC. There is nothing on record to show that such an inquiry was at all done and it is not necessary to reiterate here that in every such inquiry it is the duty of the Police Officer as well as the Magistrate to record the statements of witnesses including close relatives of the deceased. Sub-section (4) of Section 176 has a clear direction to inform the relatives of the deceased at the time of inquiry which apparently has not been done in the present case. It is to be placed on record that the Police Officers as well as the Executive Magistrates who have been given powers under Sections 174 and 176, CrPC are not quite conversant with the legal requirement in conducting an inquiry which exactly has happened in the present case. However, this discussion is necessary in order to highlight that it is the general practice that after an inquiry under Section 174 or Section 176, CrPC during which statements are also to be recorded, if evidence and materials are collected to make it a prima facie case of any offence, a regular investigation was to follow even without any formal complaint from anybody.” 2006 Cri.L.J. 2429 (Nidhan Biswas and Ors v. State of Tripura)

There is an essential difference in between Section 174 and Section 176 of the Code of Criminal Procedure, 1973. While Section 176 mandates the conducting of an inquiry into the cause of the death; Section 174 of the Code of 1973 provides for inquiry into a suicide (which gets qualified by Section 174(3) into doubt regarding any death) and to report the same to the nearest Executive Magistrate, who being empowered u/s.



174(4) of the Code of Criminal Procedure, 1973 will conduct the inquest. This aspect seems to be fortified by the observation of the Hon'ble Supreme Court in the decision reported in AIR 2003 SC 1164 (*Amar Singh vs. Balwinder Singh and others*)

Accordingly from the aforementioned observations, it may be observed that in case of report of any suicide or doubt regarding any death, the Police would inquiry into the matter and report the incident to the nearest Executive Magistrate for inquest and in case of Death / Rape and/or disappearance of a detainee in Judicial/Police Custody, an Inquiry will be conducted by a Judicial/Metropolitan Magistrate. The Code of 1973 specifically lays down the part each and every wing of the State has to play given such a situation.

The magisterial inquiry should cover the following aspects:

- a) The circumstances of death;
- b) The manner and sequence of incidents leading to death;
- c) The cause of death;
- d) Any person found responsible for the death, or suspicion of foul play that emerges during the inquiry;
- e) Act of commission/omission on the part of public servants that contributed to the death and;
- f) Adequacy of medical treatment provided to the deceased.

As per section 2(g) "inquiry" means every inquiry, other than a trial, conducted under this Code by a Magistrate or Court. Therefore the course of inquiry has to be regulated by the modalities of the Code of Criminal Procedure, 1973 as far as practicable. As inquiry is to determine the truth or falsity of certain facts in order to take a further step. Thus the inquiry has to be conducted staying alive to points sought to be covered by such inquiry. Hence the recording of evidence and evaluation of documents may become necessary for the Judicial Magistrate. Depending on the circumstance of death the inquiry magistrate may examine and verify the following records.

- a) Inquest Report
- b) Post Mortem Report. PM report should be thoroughly analyzed; if necessary, help of State FSL may be taken.
- c) Viscera Analysis Report
- d) Histopathological Examination Report
- e) Final cause of death
- f) Initial Health Screening Report of the prisoner/ Inspection Memo/Arrest Memo



- g) Medical treatment records
- h) Inquiry/Investigation report of the police made in UD case
- i) General Diary (GD) entries/any other relevant police records.
- j) Ballistic examination reports of weapon and cartridges, if any, alleged to be used in the incident by the deceased.
- k) The magistrate should examine family members and relative of the deceased, eye witnesses having information of the circumstances leading to encounter, doctors who have conducted the post mortem/provided treatment to the deceased, concerned police/prison officials, independent witnesses, co-prisoners and other such relevant persons.
- l) The visiting register of the Correctional Home may also be considered.

After such exercise the Judicial Magistrate has to determine the truth and may suggest further steps as per the finding adhered to by him. Thus the Magisterial inquiry Report should contain the circumstance in which death was reported, gist of statements recorded, documents examined, discussion on allegations proved/not proved and grounds on which conclusion has been arrived at. The report should also contain specific/definite opinion about circumstances leading to death. The act of commission/omission on the part of public servants should be specified and names of officials responsible for death/cause of death may also be indicated. At this stage Protection of Human Rights Act [since amended] becomes relevant as in the opinion of the Judicial Magistrate there might be violation of human rights. Thus the magistrate may also suggest any systemic changes or improvement that may need to be brought about to avoid any such incidents in the future and he may also suggest actions against any person found to be responsible.

For this reasons report of the Judicial Magistrate has to be forwarded to the NHRC through the District Magistrate. A copy of the report is also sent to the District Judge. If the inquiry discloses offence in violation of Human Rights, then it can also be tried by Human Rights Court constituted under Section 30 of the Protection of Human Rights Act [since amended]. The statements of the family members/relatives of the deceased, concerned doctors who rendered medical treatment/conducted post mortem, concerned police/prison official, co-prisoners, independent witnesses and other such relevant persons recorded during the inquiry needs to be forwarded with the report. All other external reports which have been referred to or relied upon by the inquiry magistrate in his/her magisterial inquiry must also be forwarded.



Recent Important Judgments

Code of Civil Procedure

Order VIII

Time for filing counter-claim — Plaintiff filed a suit for specific performance of contract on 10.06.2004 and the written statement was filed on 16.11.2005. The counter-claim was filed on 07.09.2018. The issues were framed on 05.12.2028. Order VIII rule 6-A of the Code of Civil Procedure does not put an embargo on filing the counterclaim after filing of the written statement, rather the restriction is only with respect to the accrual of the cause of action. The court observed that the counter-claim in question could not have been removed out of consideration merely because it was presented after a long time since after filing of the written statement.

Mahesh Govindji Trivedi V Bakul Maganlal Vyas 2023 (1) ICC 609 (SC)

Order XXI

Duty of executing court — It is the duty of the executing court to dispose of the execution proceeding within six months from the date of filing, which can be extended only by recording reasons in writing for such delay. This would mean that every effort should be made to dispose of the execution petition within the said time limit and the executing court should have reasons for not being able to dispose of the execution petition. The execution court is duty bound to record reasons in writing when it is unable to dispose of the matter.

Bhoj Raj Garg V Goyal Education and Welfare Society 2023 (1) ICC 711 (SC)

Order XXXIII

Permission to sue as indigent person — When the plaint does not disclose a cause of action and the suit is barred by resjudicata, the application to sue as indigent person has to be rejected by the trial court. When the application to sue as indigent person is rejected/refused, the court may grant time to the applicant to pay the requisite court fee within such time as may be fixed by the court or extended by it from time to time and upon such payment, the suit shall be deemed to have been instituted on the date on which the application for permission to sue as an indigent person was presented.

Solomon Selvaraj V Indirani Bhagwan 2023 (1) ICC 682 (SC)



Order I rule 10

Proper Party — In a suit for pre-emption, the vendor i.e., the owner of the suit land who had allegedly not given any notice of sale to the plaintiff as required to be given under the Pre-emption Act and against whom the right to pre-empt the sale is claimed would be a proper party if not a necessary party, for a complete and final adjudication on the issues involved in the suit.

Jhabbar Singh V Jagtar Singh AIR 2023 SC 2074

Order VII Rule 11

Rejection of plaint — The dispute, whether the Development Agreement stands cancelled or whether the agreement can be lawfully cancelled, is a dispute arising out of or in connection with the Development Agreement. Therefore, as per the arbitration clause, if the issue concerning cancellation is not mutually resolved, the same must be referred to arbitration. So, rejection of plaint by directing to refer dispute to arbitration is proper.

M/s Asian Avenues Pvt Ltd V Syed Shoukat Hussain AIR 2023 SC 2185

Section 83(1)(a) of Representation of the People Act, 1951 mandates that an Election petition shall contain a concise statement of material facts on which the petitioner relies. If material facts are not stated in an Election petition, the same is liable to be dismissed on that ground alone, as the case would be covered by Clause (a) of Rule 11 of Order 7 of the Code. The material facts must be such facts as would afford a basis for the allegations made in the petition and would constitute the cause of action, that is every fact which it would be necessary for the plaintiff/petitioner to prove, if traversed in order to support his right to the judgement of court. Omission of a single material fact would lead to an incomplete cause of action and the statement of plaint would become bad.

Kanimozhi Karunanidhi V A.Santhana Kumar AIR 2023 SC 2366

Rejection of counter claim--A counter-claim is a virtually a plaint and an independent suit. It is also a settled proposition of law that a plaint which falls within the teeth of the conditions laid down under Rule 11 of Order VII CPC is liable to be rejected at the threshold for which the plaint allegations alone are required to be considered and nothing else.

Essem Logistics V DARCL Logistics Limited 2023 (3) ICC 94 (SC)

Order XX rule 18

Suit for declaration and payment of court fees — The way in which the suit claim has been valued and court-fee paid, demonstrates very clearly that it was not a suit for declaration of title to any property. It was only a suit for partition. All the suit schedule properties have been valued at a particular rate and court-fee was paid on the value of the share, of which the plaintiff was seeking partition. If it was a suit containing a prayer for declaration of title, the court-fee was liable to be paid on the whole value of the property and not on the share sought to be partitioned.

M/s. Trinity Infraventures Ltd. v. M.S. Murthy AIR 2023 SC 3361

Order XXI rule 35

Stages in partition suit — Order XX Rule 18 of the Code of Civil Procedure, 1908, lays down a procedure to be adopted by a Court while passing a decree in a suit for partition. There are two sub-rules to Rule 18 of Order XX. As per the first sub-rule, the Court passing a decree for partition may direct the partition or separation to be made by the Collector or any gazetted subordinate deputed by him, if the decree relates to an estate assessed to the payment of revenue to the Government. This shall be done, after first declaring the rights of several parties interested in the property. Under the second sub-rule, the Court may, if it thinks that the partition and separation cannot be conveniently made without further enquiry, pass a preliminary decree declaring the rights of several parties and giving such further directions as may be required, if the decree relates to any other immovable property not covered by sub-rule (1). Order XXVI Rule 13 of the Code. Order 26 Rule 13 provides that where a preliminary decree for partition has been passed, in any case not covered by Section 54 {and Order XX Rule 18 (1)}, the Court should issue Commission to such a person as it thinks fit, to make partition and separation according to the rights as declared in such a decree. The Commissioner so appointed should conduct an enquiry, divide the property into as many shares as may be and allot such shares to the parties, awarding wherever required and authorized, such sums to be paid for the purpose of equalizing the value of the shares, under Order XXVI Rule 14 (1). The Commissioner should then file a report into Court under sub-rule (2) of Rule 14 of Order XXVI. The Court may give an opportunity to the parties to file objections to the report and thereafter confirm, vary or set aside the recommendations made in the report of the Commissioner. After this is done by the Court, a decree should be passed by the Court under Order XXVI Rule 14 (3) of the Code. Therefore, in a case of partition and separate possession not covered by Section 54 of the Code,



a preliminary decree is first passed in terms of Order XX Rule 18 (2) of the Code, a Commissioner is appointed in a subsequent proceeding under Order XXVI Rule 13 and on the basis of his report, a final decree is passed under Order XXVI Rule 14 (3) of the Code. Thereafter, the possession of such property, if it is an immovable property, is taken by executing such final decree in terms of Order XXI Rule 35 of the Code. *M/s. Trinity Infraventures Ltd. v. M.S. Murthy AIR 2023 SC 3361*

Code of Criminal Procedure

Section 173

Charge-sheet and obligation of public authority — Under Section 4(2) of the RTI Act a duty is cast upon the public authority to take steps in accordance with the requirements of clause (b) of sub- Section 1 of Section 4 of the RTI Act to provide as much information suo moto to the public at regular intervals through various means of communications. Copies of the charge-sheet and the relevant documents along with the charge-sheet do not fall within Section 4(1)(b) of the RTI Act.

Saurav Das v. Union of India AIR 2023 SC 615

Section 173(8)

Further investigation — Merely because the High Court has not granted extension of time, it does not mean that the direction to conduct further investigation has become infructuous.

Y.Balaji V Karthik Desari AIR 2023 SC 3171

Section 188

Sanction not required — Section 188 gets attracted when the entirety of the offence is committed outside India; and the grant of sanction would enable such offence to be enquired into or tried in India. A part of offence was committed in India. Since the offence was not committed in its entirety, outside India, the matter would not come within the scope of section 188 of the Code and there was no necessity of any sanction as mandated by the proviso to section 188.

Sartaj Khan V State of Uttarakhand 2023 CrLJ 411 (SC)



Section 204

Scuttling of the criminal process not warranted — To non-suit the complainant, at the stage of the summoning order, when the factual controversy is yet to be canvassed and considered by the Trial Court is not judicious. Therefore, when the proceeding are at a nascent stage, scuttling of the criminal process is not merited.

Rathish Babu Unnikrishnan V State (Govt. of NCT of Delhi) 2023 CrLJ 311 (SC)

Section 319

Guidelines — The competent court must follow the following guidelines while exercising power under section 319 of the Code of Criminal Procedure —

- (i) If the competent court finds evidence or if application under section 319 of CrPC is filed regarding involvement of any other person in committing the offence based on evidence recorded at any stage in the trial before passing of the order on acquittal or sentence, it shall pause the trial at that stage.
- (ii) The Court shall thereupon first decide the need or otherwise to summon the additional accused and pass orders thereon.
- (iii) If the decision of the court is to exercise the power under section 319 of CrPC and summon the accused, such summoning order shall be passed before proceeding further with the trial in the main case.
- (iv) If the summoning order of additional accused is passed, depending on the stage at which it is passed, the Court shall also apply its mind to the fact whether such summoned accused is to be tried along with the other accused or separately.
- (v) If the decision is for joint trial, the fresh trial shall be commenced only after securing the presence of the summoned accused.
- (vi) If the decision is that the summoned accused can be tried separately, on such order being made, there will be no impediment for the Court to continue and conclude the trial against the accused who were being proceeded with.
- (vii) If the proceeding paused as in (i) above is in a case where the accused who were tried are to be acquitted and the decision is that the summoned accused can be tried afresh separately, there will be no impediment to pass the judgment of acquittal in the main case.



- (viii) If the power is not invoked or exercised in the main trial till its conclusion and if there is a split-up (bifurcated) case, the power under section 319 of CrPC can be invoked or exercised only if there is evidence to that effect, pointing to the involvement of the additional accused to be summoned in the split up (bifurcated) trial.
- (ix) If, after arguments are heard and the case is reserved for judgment the occasion arises for the Court to invoke and exercise the power under section 319 of CrPC, the appropriate course for the court is to set it down for re-hearing.
- (x) On setting it down for re-hearing, the above laid down procedure to decide about summoning; holding of joint trial or otherwise shall be decided and proceeded with accordingly.
- (xi) Even in such a case, at that stage, if the decision is to summon additional accused and hold a joint trial the trial shall be conducted afresh and de novo proceedings be held.
- (xii) If, in that circumstance, the decision is to hold a separate trial in case of the summoned accused as indicated earlier;
- (a) The main case may be decided by pronouncing the conviction and sentence and then proceed afresh against summoned accused.
- (b) In the case of acquittal the order shall be passed to that effect in the main case and then proceed afresh against summoned accused.

Sukhpal Singh Khaira V State of Punjab AIR 2023 SC 1

Section 321

Principles — The principles on the withdrawal of a prosecution under section 321 of the Code of Criminal Procedure, 1973 are as follows:

- (i) Section 321 entrusts the decision to withdraw from a prosecution to the public prosecutor but the consent of the court is required for a withdrawal of the prosecution;
- (ii) The public prosecutor may withdraw from a prosecution not merely on the ground of paucity of evidence but also to further the broad ends of public justice;



- (iii) The public prosecutor must formulate an independent opinion before seeking the consent of the court to withdraw from the prosecution;
- (iv) While the mere fact that the initiative has come from the government will not vitiate an application for withdrawal, the court must make an effort to elicit the reasons for withdrawal to ensure that the public prosecutor was satisfied that the withdrawal of the prosecution is necessary for good and relevant reasons;
- (v) In deciding whether to grant its consent to a withdrawal, the court exercises a judicial function but it has been described to be supervisory in nature. Before deciding whether to grant its consent the court must be satisfied that:
 - (a) The function of the public prosecutor has not been improperly exercised or that it is not an attempt to interfere with the normal course of justice for illegitimate reasons or purposes;
 - (b) The application has been made in good faith, in the interest of public policy and justice, and not to thwart or stifle the process of law;
 - (c) The application does not suffer from such improprieties or illegalities as would cause manifest injustice if consent were to be given;
 - (d) The grant of consent sub-serves the administration of justice; and
 - (e) The permission has not been sought with an ulterior purpose unconnected with the vindication of the law which the public prosecutor is duty bound to maintain;
- (vi) While determining whether the withdrawal of the prosecution sub-serves the administration of justice, the court would be justified in scrutinizing the nature and gravity of the offence and its impact upon public life especially where matters involving public funds and the discharge of a public trust are implicated; and
- (vii) In a situation where both the trial judge and the revisional court have concurred in granting or refusing consent, this Court while exercising its jurisdiction under Article 136 of the Constitution would exercise caution before disturbing concurrent findings. The Court may in exercise of the well-settled principles attached to the exercise of this jurisdiction, interfere in a case where there has been a failure of the trial judge or of the High Court to apply the correct principles in deciding whether to grant or withhold consent.

State of Kerala V K.Ajith 2021 CrLJ 4058 (SC)



Section 327

Duties and responsibilities of trial court in sexual harassment cases — The duty and responsibility of trial courts to deal with sexual harassment cases are as under —

- (1) Allowing proceedings to be conducted in camera, where appropriate, either under Section 327 CrPC or when the case otherwise involves the aggrieved person (or other witness) testifying as to their experience of sexual harassment / violence;
- (2) Allowing the installation of a screen to ensure that the aggrieved woman does not have to see the accused while testifying or in the alternative, directing the accused to leave the room while the aggrieved woman's testimony is being recorded;
- (3) Ensuring that the counsel for the accused conducts the cross-examination of the aggrieved woman in a respectful fashion and without asking inappropriate questions, especially regarding the sexual history of the aggrieved woman. Cross-examination may also be conducted such that the counsel for the accused submits her questions to the court, who then poses them to the aggrieved woman;
- (4) Completing cross-examination in one sitting, as far as possible.

XYZ v. State of Madhya Pradesh AIR 2022 SC 3957:2022 CrLJ 3969(SC)

Section 436A

Provision contained in section 436A applicable to Special Acts — Each special Act has got an objective behind it, followed by the rigor imposed. The provision contained in Section 436A of the Code would apply to the Special Acts also in the absence of any specific provision. For example, the rigor as provided under Section 37 of the NDPS Act would not come in the way in such a case as we are dealing with the liberty of a person. Thus, if an accused is already under incarceration, then the same would continue, and therefore, it is needless to say that the provision of the Special Act would get applied thereafter. It is only in a case where the accused is either not arrested consciously by the prosecution or arrested and enlarged on bail, there is no need for further arrest at the instance of the court.

Satinder Kumar Antil V Central Bureau of Investigation AIR 2022 SC 3386: 2022 (11) Scale 114



Section 439

Bail Law—a new perspective — A bail is nothing but a surety inclusive of a personal bond from the accused. It means release of an accused person either by the orders of the Court or by the police or by the Investigating agency. It is a set of pre-trial restrictions imposed on a suspect while enabling any interference in the judicial process. Thus, it is a conditional release on the solemn undertaking by the suspect that he would cooperate both with investigation and trial. The Supreme Court has laid down the following guidelines both for investigation agencies and the courts for release of accused on bail (1) ———

- (a) The Government of India may consider the introduction of a separate enactment in the nature of a Bail Act of the United Kingdom so as to streamline the grant of bails.
- (b) The investigating agencies and their officers are duty-bound to comply with the mandate of section 41 and 41A of the Code of Criminal Procedure. Any dereliction on their part has to be brought to the notice of the higher authorities by the court followed by appropriate action.
- (c) The courts will have to satisfy themselves on the compliance of section 41 and 41A of the Code. Any non-compliance would entitle the accused for grant of bail.
- (d) All the State Governments and the Union Territories are directed to facilitate standing orders for the procedure to be followed under section 41 and 41A of the Code.
- (e) There need not be any insistence of a bail application while considering the application under section 88, 170, 204 and 209 of the Code.
- (f) The State and Central Governments will have to comply with the directions issued by this Court from time to time with respect to constitution of special courts. The High Court in consultation with the State Governments will have to undertake an exercise on the need for the special courts. The vacancies in the position of Presiding Officers of the special courts will have to be filled up expeditiously.
- (g) The High Courts are directed to undertake the exercise of finding out the under-trial prisoners who are not able to comply with the bail conditions. After doing so, appropriate action will have to be taken in light of section 440 of the Code of Criminal Procedure, facilitating the release.



- (h) While insisting upon sureties the mandate of section 440 of the Code of Criminal Procedure has to be kept in mind.
- (i) An exercise will have to be done in a similar manner to comply with the mandate of section 436A of the Code of Criminal Procedure both at the district judiciary level and the High Court followed by appropriate orders.
- (j) Bail applications ought to be disposed of within a period of two weeks except if the provisions mandate otherwise, with the exception being an intervening application. Applications for anticipatory bail are expected to be disposed of within a period of six weeks with the exception of any intervening application.

Satender Kumar Antil V Central Bureau of Investigation AIR 2022 SC 3386

Section 439

Filing of charge-sheet not a ground for bail — Merely because, for the predicated offences the chargesheet might have been filed it cannot be a ground to release the accused on bail in connection with the scheduled offences under the PML Act, 2002. Investigation for the predicated offences and the investigation by the Enforcement Directorate for the scheduled offences under the PML Act are different and distinct.

Directorate of Enforcement V Aditya Tripathi AIR 2023 SC 2324

Indian Evidence Act

Copy of Charge-sheet not a public document — Documents mentioned in Section 74 of the Evidence Act only can be said to be public documents, the certified copies of which are to be given by the concerned police officer having the custody of such a public document. Copy of the charge-sheet along with the necessary documents cannot be said to be public documents within the definition of Public Documents as per Section 74 of the Evidence Act. As per Section 75 of the Evidence Act all other documents other than the documents mentioned in Section 74 of the Evidence Act is all private documents. Therefore, the charge-sheet/documents along with the charge-sheet cannot be said to be public documents under Section 74 of the Evidence Act.

Saurav Das v. Union of India AIR 2023 SC 615

Electronic record — Section 65B concerns the admissibility of electronic records. Without certification, ED may not be able to use those electronic records in evidence, in



the prosecution under PMLA. But it does not mean that they cannot even have a look at the electronic record.

Y.Balaji V Karthik Desari AIR 2023 SC 3171

Section 106

Burden of proof — The argument that the accused has failed to discharge his burden under section 106 of the Evidence Act and, therefore, his conviction was justified is misconceived. Section 106 of the Evidence Act does not absolve the prosecution of discharging its primary burden of proving the prosecution case beyond reasonable doubt. It is only when the prosecution has led evidence which, if believed, will sustain a conviction, or which makes out a prima facie case, the question arises of considering facts of which the burden of proof would lie upon the accused. The incriminating circumstances were not proved beyond reasonable doubt and, secondly, they do not form a chain so complete from which it could be inferred with a degree of certainty that it is the accused and no one else who, within all human probability, committed the crime. In these circumstances, there was no occasion to place burden on the accused with the aid of section 106 of the Evidence Act to prove his innocence or to disclose that he parted company of the deceased before his murder.

State of Punjab v. Kewal Krishan AIR 2023 SC 3226

Execution of sale deed and burden of proof — Where a deed of sale had been duly executed and registered, its delivery and payment of consideration have been endorsed thereon it would amount to a full transfer of ownership so as to entitle its purchaser to maintain a suit for possession of the property sold. The very object of the mandate for registration of transfer of an immovable property worth more than Rs. 100/- under Section 54 of the Transfer of Property Act, 1882, read with Section 17 of the Indian Registration Act, is primarily to give certainty to title. When execution is challenged, registration by itself is no proof of execution and proof of complying with Section 67 of the Evidence Act is necessary. There can be no reason to disbelieve a recital contained in a registered sale deed regarding payment of consideration, executed by the vendor. The sale deed is registered and its executants viz., the first defendant endorsed its execution and fully endorsed its contents and the second executant viz., the second defendant also endorsed its execution, but depose differently on its intention. Thus, the admitted position is that its execution and registration is not in dispute. Since it is a registered sale deed and its execution is not in dispute it must carry a presumption that the transaction was a genuine one. Thus, evidently, the dispute is only in regard to the nature of transaction.



The burden was entirely on the second defendant to establish otherwise and to prove that it did not reflect the true nature of transaction.

Damodhar Narayan Sawale (D) Through LRs. v. Tejrao Bajirao Mhaske AIR 2023 SC 3319

Section 118

Duty of judicial officer before recording evidence of child witness — Before recording evidence of a minor, it is the duty of a Judicial Officer to ask preliminary questions to him with a view to ascertain whether the minor can understand the questions put to him and is in a position to give rational answers. The Judge must be satisfied that the minor is able to understand the questions and respond to them and understands the importance of speaking the truth. Therefore, the role of the Judge who records the evidence is very crucial. He has to make a proper preliminary examination of the minor by putting appropriate questions to ascertain whether the minor is capable of understanding the questions put to him and is able to give rational answers. It is advisable to record the preliminary questions and answers so that the Appellate Court can go into the correctness of the opinion of the Trial Court.

Pradeep V State of Haryana AIR 2023 SC 3245

Indian Penal Code

Section 466/467/468 IPC

No false document has been produced. What was produced was the Memorandum and no other documents were produced. Even according to the original complainant, the Memorandum and the claim made at the time of registration of the Party that it has adopted a Memorandum accepting the secularism, the same was contrary to the Constitution of the Party produced before the Gurudwara Election Commission. Making a false claim and creating and producing the false document both are different and distinct. So far as the offences under Sections 466, 467, and 468 IPC are concerned, on the face of it, it cannot be said that any case is made out for the said offences.

Sukhbir Singh Badal v. Balwant Singh Khara AIR 2023 SC 3053



Specific Relief Act

Time essence of contract — When specific performance of the terms of the contract has not been done, the question of time being the essence does not arise.

Gaddipati Divija V Pathuri Samrajyam 2023 (6) Scale 331

Negotiable Instrument Act

Presumption under section 139 — The presumption under section 139 includes a presumption that there exists a legally enforceable debt or liability. However, such presumption is rebuttable and it is open to the accused to raise a defence wherein the existence of a legally enforceable debt or liability can be contested.

Jain P.Jose V Santosh 2023 (1) ICC 686 (SC)

Commercial Courts Act

Section 12A

Section 12A applicable to suits only — Pre- institution mediation has been mandated only in a class of suits because in suits which contemplate urgent interim relief, the Law-giver has carefully vouch-safed immediate access to justice as contemplated ordinarily through the courts. The carving out of a class of suits and selecting them for compulsory mediation, harmonises with the attainment of the object of the law. The load on the Judges is lightened. They can concentrate on matters where urgent interim relief is contemplated and, on other matters, which already crowd their dockets.

M/s. Patil Automation Private Limited v. Rakheja Engineers Private Limited (2022) 10 SCC 1: AIR 2022 SC 3848:2022 (12) Scale 153

Invocation of Section 12A mandatory — The language used in Section 12A, which includes the word 'shall', certainly, go a long way to assist the Court to hold that the provision is mandatory. The entire procedure for carrying out the mediation, has been spelt out in the Rules. The parties are free to engage Counsel during mediation. The expenses, as far as the fee payable to the Mediator, is concerned, is limited to a one-time fee, which appears to be reasonable, particularly, having regard to the fact that it is to



be shared equally. A trained Mediator can work wonders. Mediation must be perceived as a new mechanism of access to justice. Any reluctance on the part of the Court to give Section 12A, a mandatory interpretation, would result in defeating the object and intention of the Parliament. The fact that the mediation can become a non-starter, cannot be a reason to hold the provision not mandatory. In short, section 12A of the Act is mandatory. Any suit instituted violating the mandate of Section 12A must be visited with rejection of the plaint under Order VII Rule 11 of the Code of Civil Procedure.

**M/s. Patil Automation Private Limited v. Rakheja Engineers Private Limited (2022)
10 SCC 1: AIR 2022 SC 3848:2022 (12) Scale 153**

NDPS Act

Statutory bail and prayer for extension of time: Principles

- (1) Right of an accused to statutory bail upon expiry of the period of detention prescribed under section 36A(4) of NDPS Act is an inchoate one till he avails of his right by seeking statutory bail either by way of an application or even orally. Hence, he cannot be released automatically on statutory bail on the mere expiry of 180 days even if the prosecutor has failed to submit report seeking extension of detention in terms of the proviso to section 36A(4) of the Act before expiry of the said period;
- (2) Order extending the period of detention under proviso to section 36A(4) of NDPS Act on a report of the Public Prosecutor submitted after expiry of 180 days but prior to the accused availing of his right does not envisage retrospective operation but the total period of detention under the aforesaid provision cannot exceed one year in the whole;
- (3) The right to statutory bail stands extinguished once the report of the Public Prosecutor seeking extension is filed. Hence, remand of the accused till the prayer of the prosecutor is disposed of is traceable to section 167(2) Cr.P.C. read with section 36A(4) of the NDPS Act. In the event, the application for extension is dismissed or an order extending detention is set aside by a superior court right to statutory bail revives in favour of the accused;
- (4) Upon expiry of 180 days of detention, Special Court as a cautionary measure ought to inform the accused (particularly if he is from an underprivileged section of



society and is unrepresented by a counsel) of his right to statutory bail. However, failure to intimate the accused of his right by itself would not entitle him to statutory bail unless he avails of such relief;

- (5) Prayer for extension of period of detention must be on the basis of a report of Public Prosecutor which must record progress of investigation and spell out specific reasons to justify further detention beyond 180 days pending investigation;
- (6) Special Court on the basis of the report of Public Prosecutor and materials in support of such plea must be satisfied of the twin requirements, i.e., (a) there is appreciable progress in the investigation and (b) there are specific/compelling reasons to justify further detention pending investigation. Each case has to be decided on its own merits. For example, failure to complete investigation solely on the score of non-submission of FSL report of the samples drawn from the contraband is an institutional shortcoming. This by itself may not justify further detention pending completion of investigation. But if the aforesaid fact situation is coupled with compelling circumstances like complexities in investigation in an organized crime racket or inter-state/ trans-border trafficking, criminal antecedents of the accused giving rise to possibility of recidivism, abscondence of co-accused, etc., constituting 'specific reasons' justifying further detention, the Court may be inclined to extend the period of detention and deny liberty;
- (7) Prayer for extension of period of detention must be decided at the earliest without undue delay preferably within 7 days from making such application. Reasons for adjournment must be specifically stated;
- (8) No written notice or copy of report of Public Prosecutor requires to be served upon the accused or his counsel but the accused or his counsel must be present personally or through video linkage at the time of consideration of the application. Accused and/or his counsel must be aware of such consideration and may raise objection, if any, with regard to compliance of mandatory requirements of law.

Subhas Yadav V State of West Bengal 2023 (2) AICLR 297

Undue delay in trial and grant of bail — The conditions which courts have to be cognizant of are that there are reasonable grounds for believing that the accused is “not guilty of such offence” and that he is not likely to commit any offence while on bail. The expression “not guilty” can only be a prima facie determination. That places the court’s discretion within a very narrow margin. Given the mandate of the general law on bails



(Sections 436, 437 and 439, CrPC) which classify offences based on their gravity, and instruct that certain serious crimes have to be dealt with differently while considering bail applications, the additional condition that the court should be satisfied that the accused (who is in law presumed to be innocent) is not guilty, has to be interpreted reasonably. The classification of offences under Special Acts (NDPS Act, etc.), which apply over and above the ordinary bail conditions required to be assessed by courts, require that the court records its satisfaction that the accused might not be guilty of the offence and that upon release, they are not likely to commit any offence. These two conditions have the effect of overshadowing other conditions. In cases where bail is sought, the court assesses the material on record such as the nature of the offence, likelihood of the accused cooperating with the investigation, not fleeing from justice: even in serious offences like murder, kidnapping, rape, etc. On the other hand, the court in these cases under such special Acts, have to address itself principally on two facts: likely guilt of the accused and the likelihood of them not committing any offence upon release. A plain and literal interpretation of the conditions under Section 37 (i.e., that Court should be satisfied that the accused is not guilty and would not commit any offence) would effectively exclude grant of bail altogether, resulting in punitive detention and unsanctioned preventive detention as well. Therefore, the only manner in which such special conditions as enacted under Section 37 can be considered within constitutional parameters is where the court is reasonably satisfied on a prima facie look at the material on record (whenever the bail application is made) that the accused is not guilty. Any other interpretation, would result in complete denial of the bail to a person accused of offences such as those enacted under Section 37 of the NDPS Act. Grant of bail on ground of undue delay in trial, cannot be said to be fettered by Section 37 of the Act, given the imperative of Section 436A which is applicable to offences under the NDPS Act too

Mohd. Muslim alias Hussain V State (NCT of Delhi) AIR 2023 SC 1648

Unlawful Activities Prevention Act, 1967

Constitutional Validity of section 10(a) (i) ——— Mere possibility of misuse cannot be a ground and/or relevant consideration while considering the constitutionality of a provision. As per the settled position of law any action which is the result of abuse/misuse of any law is subject to challenge. But on the possibility of abuse/misuse of law otherwise constitutionally valid legislation cannot be declared unconstitutional. Once that is done and despite that a person who is a member of such unlawful association continues to be a member of such unlawful association then he has to face the consequences and is



subjected to the penal provisions as provided u/S. 10(a)(i) of the Act. Therefore, S.10(a) (i) of the Act is absolutely in consonance with Arts. 19(1)(2) and (4) of the Constitution of India and it can be said to be in furtherance of the object and purpose for which the Act has been enacted.

Arup Bhuyan V State of Assam AIR 2023 SC 1685

Continuation of membership with unlawful association — Once an association is declared unlawful of whom the concerned person was the member wishes to continue as a member despite the fact that he is well aware of the fact that such an association is declared unlawful and if he still wishes to continue being a part of such unlawful association it shows a conscious decision on his part and therefore liable to be penalized for such an act of continuation of his membership with such unlawful association. Therefore, thereafter he may not make grievance of chilling effect.

Arup Bhuyan V State of Assam AIR 2023 SC 1685

Motor Vehicles Act

Multiple claims filed in different States :Guidelines —

- (1) On receiving the intimation regarding road accident by use of a motor vehicle at public place, the SHO concerned shall take steps as per Section 159 of the M.V. Amendment Act.
- (2) After registering the FIR, Investigating Officer shall take recourse as specified in the M.V. Amendment Rules, 2022 and submit the FAR within 48 hours to the Claims Tribunal. The IAR and DAR shall be filed before the Claims Tribunal within the time limit subject to compliance of the provisions of the Rules.
- (3) The registering officer is duty bound to verify the registration of the vehicle, driving licence, fitness of vehicle, permit and other ancillary issues and submit the report in coordination to the police officer before the Claims Tribunal.
- (4) The Investigating Officer shall inform the victim(s)/legal representative(s), driver(s), owner(s), insurance companies and other stakeholders with respect to the action taken following the M.V. Amendment Rules and shall take steps to produce the witnesses on the date, so fixed by the Tribunal.



- (5) On receiving FAR from the police station, the Claims Tribunal shall register such FAR as Miscellaneous Application. On filing the IAR and DAR by the Investigating Officer in connection with the said FAR, it shall be attached with the same Miscellaneous Application. The Claims Tribunal shall pass appropriate orders in the said application to carry out the purpose of Section 149 of the M.V. Amendment Act and the Rules, as discussed above.
- (6) The Claim Tribunals are directed to satisfy themselves with the offer of the Designated Officer of the insurance company with an intent to award just and reasonable compensation. After recording such satisfaction, the settlement be recorded under Section 149(2) of the M.V. Amendment Act, subject to consent by the claimant(s). If the claimant(s) is not ready to accept the same, the date be fixed for hearing and affording an opportunity to produce the documents and other evidence seeking enhancement, the petition be decided. In the said event, the said enquiry shall be limited only to the extent of the enhancement of compensation, shifting onus on the claimant(s).
- (7) If the claimant(s) files an application under Section 164 or 166 of the M.V. Amendment Act, on receiving the information, the Miscellaneous Application registered under Section 149 shall be sent to the Claims Tribunal where the application under Section 164 or 166 is pending immediately by the Claims Tribunal.
- (8) In case the claimant(s) or legal representative(s) of the deceased have filed separate claim petition(s) in the territorial jurisdiction of different High Courts, in the said situation, the first claim petition filed by the claimant(s)/legal representative(s) shall be maintained by the said Claims Tribunal and the subsequent claim petition(s) shall stand transferred to the Claims Tribunal where the first claim petition was filed and pending.
- (9) If the claimant(s) takes recourse under Section 164 or 166 of the M.V. Amendment Act, as the case may be, he/they are directed to join Nodal Officer/Designated Officer of the insurance company as respondents in the claim petition as proper party of the place of accident where the FIR has been registered by the police station. Those officers may facilitate the Claims Tribunal specifying the recourse as taken under Section 149 of the M.V. Amendment Act.
- (10) Registrar General of the High Courts, States Legal Services Authority and State Judicial Academies are requested to sensitize all stakeholders as early as possible



with respect to the provisions of Chapters XI and XII of the M.V. Amendment Act and the M.V. Amendment Rules, 2022 and to ensure the mandate of law.

- (11) For compliance of mandate of Rule 30 of the M.V. Amendment Rules, 2022, it is directed that on disputing the liability by the insurance company, the Claims Tribunal shall record the evidence through Local Commissioner and the fee and expenses of such Local Commissioner shall be borne by the insurance company.
- (12) The State Authorities shall take appropriate steps to develop a joint web portal/platform to coordinate and facilitate the stakeholders for the purpose to carry out the provisions of M.V. Amendment Act and the Rules in coordination with any technical agency and be notified to public at large.

Gohar Mohammed V Uttar Pradesh State Road Transport Corporation (2023) 4 SCC 381

West Bengal Land Reforms Act

Presumption

Application for pre-emption without deposit not maintainable — The right of pre-emption is “a very weak right”. That being the character of the right, any provision to enforce such a right must, thus, be strictly construed. Therefore, deposit of the entire sale consideration with additional 10% of the sale consideration along-with the pre-emption application is a statutory and mandatory requirement and it is a pre-condition before any further enquiry as contemplated under Section 9 of the Act is held. Thus, alongwith the pre-emption application, the pre-emptors have to deposit the entire sale consideration with additional 10% and only thereafter the further enquiry can be conducted as per section 9 of the Act, 1955 and therefore, unless and until the same is complied with, the pre-emption application would not be maintainable.

Abdul Matin Mallick V Subrata Bhattacharjee AIR 2022 SC 2175; (2022) 7 SCC 147

Rejection of pre-emption application and allegation of inflated price in sale-deed — An application for pre-emption under Section 8 of the West Bengal Land Reforms Act, 1955, on the ground of co-sharership, cannot be rejected at the outset as not maintainable if the application is accompanied by a deposit of an amount less than the consideration



shown in the sale deed sought to be pre-empted, along with the statutory interest of 10%, on the allegations that the price shown in the deed was inflated and the actual consideration money paid according to the pre-emptor is the lesser amount deposited with the pre-emption application as well as that no notice under Section 5 of the said Act was served on the co-sharer/pre-emptor.

Sk. Abdul Odud Ali V Emanulla Khan 2021 (4) ICC 428 (Cal)



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