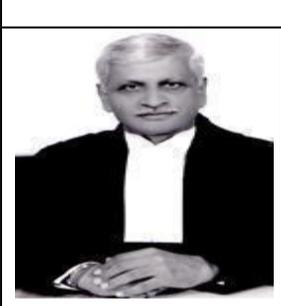


REPORTABLE JUDGMENTS OF THE SUPREME COURT OF INDIA

IN APRIL 2022

REPORTABLE JUDGMENTS AUTHORED BY:	CASE DETAILS	AREA OF LAW / RATIO / HELD
 Hon'ble Mr. Justice N. V. Ramana, The Chief Justice Of India	<p><u>Ms. Y v. State of Rajasthan & Anr.</u></p> <p>Date: 19.04.2022 Bench Strength: 2 Judges</p>	<p><u>Criminal Law-Reversal of Grant of Bail:</u></p> <p>The Supreme Court reversed the order of grant of Bail passed by the High Court of Rajasthan to the Respondent No.2, who was accused of committing rape against his niece aged 19 years. The Court held that the H.C. failed to consider that the Accused was a habitual offender, and nearly twenty cases were registered against him.</p> <p>The Court also addressed the trend of passing of bail orders containing a general observation that “the facts and the circumstances” have been considered, where no specific reasons are indicated, despite various judgments of the Supreme Court disapproving such practice.</p>
 Hon'ble Mr. Justice Uday Umesh Lalit	<p><u>Kamatchi v. Lakshmi Narayanan</u></p> <p>Date: 13.04.2022 Bench Strength: 2 Judges</p>	<p><u>Protection of Women from Domestic Violence Act, 2005-Limitation for filing Complaint:</u></p> <p>The Supreme Court was considering a challenge raised by a wife against an Order of the H.C. quashing her Complaint under the D.V. Act on the ground of limitation.</p> <p>It was held that the limitation period prescribed u/S.468 Cr.P.C. is not applicable for filing an application by an aggrieved woman u/S. 12 of the D.V. Act. It was held that filing of an application u/S. 12 of the Act cannot be equated to lodging of a complaint or initiation of prosecution.</p> <p>It was held that the starting point for limitation would arise only and only after there is a breach of an order passed u/S.12 of the Act. Accordingly, the Court set aside the Order of the H.C.</p>

<p><i>Hon'ble Mr. Justice Uday Umesh Lalit</i></p>	<p><u>Union of India & Ors. v. M/s. Willowood Chemicals Pvt. Ltd. & Anr.</u></p> <p>Date: 19.04.2022 Bench Strength: 2 Judges</p>	<p><u>Tax Law-Interest on Delayed Refund:</u></p> <p>The Supreme Court held that in cases of delayed refund of integrated tax paid on Export of goods governed by the principal provision of Sec. 56 of the Central Goods and Services Tax Act, 2017, the interest would be payable @ 6% as prescribed by the statute, especially when the delay was not inordinate.</p> <p>The Court allowed the appeals and directed that the original writ petitioners would be entitled to interest @ 6 % p.a. on amounts which they were entitled to by way of refund of tax, and since the concerned amounts along with interest @ 6 % p.a. had already been made over to them, nothing further need be done in both the Appeals.</p>
	<p><u>Akhilesh Prasad v. Jharkhand Public Service Commission & Ors.</u></p> <p>Date: 26.04.2022 Bench Strength: 3 Judges</p>	<p><u>Service Law-Reservation benefit after State Re-organization:</u></p> <p>The Supreme Court was considering a challenge to an Order of the H.C. holding that the employee could not be said to be belonging to the ST category for the limited departmental examination on the ground that his caste certificate was not issued by the authorities in Jharkhand, but was rather issued by the authorities in Bihar, where he posted prior to the State re-organization in 2000.</p> <p>Authoring the Judgment for the majority, Justice Lalit held that the H.C. erred in holding that limited departmental examination was nothing but direct recruitment from the open market.</p> <p>It was held that the employee was entitled to participate in the limited departmental examination in the State of Jharkhand because of S.73 and S.74 of the Bihar Re-organization Act, 2000. Accordingly, the Court set aside the Order of the H.C.</p> <p><u>NOTE:</u> Justice Lalit authored the majority judgment (for himself and Justice Pamidighantam Sri Narasimha), whereas Justice S. Ravindra Bhat authored a separate concurring view.</p>

 <p>Hon'ble Mr. Justice A. M. Khanwilkar</p>	<p><u>Noel Harper & Ors. v. Union of India & Anr.</u></p> <p>Date: 08.04.2022 Bench Strength: 3 Judges</p>	<p><u>Constitutionality of a Statute-Foreign Contribution (Regulation) Amendment Act, 2020:</u></p> <p>The Supreme Court upheld the constitutional validity of the amended provisions <i>vide</i> the Foreign Contribution (Regulation) Amendment Act, 2020, <i>viz.</i>, Sections 7, 12(1A), 12A and 17 of the 2010 Act. The Court however, read down Section 12A, and construed it as permitting the key functionaries who are Indian nationals, to produce Indian Passport for the purpose of their identification, as substantial compliance.</p>
	<p><u>Dr. Joe Joseph & Ors. v. State of Tamil Nadu & Ors.</u></p> <p>Date: 08.04.2022 Bench Strength: 3 Judges</p>	<p><u>Inter-State Water Dispute- Mullaperiyar Dam:</u></p> <p>The Supreme Court directed the Supervisory Committee consisting of three members, <i>viz.</i>, one representative from the Central Water Commission and one representative each from the two States - Tamil Nadu and Kerala, constituted by its judgment in <i>State of Tamil Nadu v. State of Kerala & Anr.</i> (2014) 12 SCC 696 to monitor the safety arrangements of the Mullaperiyar Dam till the National Dam Safety Authority under the Dam Safety Act 2021 comes into effect. Further, for the purpose of strengthening the existing Supervisory Committee, the Court acceded to the suggestions given by the party-States that two technical experts be made part of the existing Supervisory Committee, one each from the State of Kerala and State of Tamil Nadu, who must be well-versed in dam management, reservoir operation, instrumentation, etc.</p>
 <p>Hon'ble Dr. Justice D. Y. Chandrachud</p>	<p><u>Tushar Arun Gandhi v. State of Gujarat and Ors.</u></p> <p>Date: 01.04.2022 Bench Strength: 2 Judges</p>	<p><u>Civil Law-Council for Development of Gandhi Ashram:</u></p> <p>The Supreme Court was considering a challenge to an order passed by the H.C. summarily disposing of a writ petition challenging the constitution of a Governing Council and Executive Council for the development of Gandhi Ashram. It was held that it would have been appropriate for the H.C. to decide upon the issues, after furnishing to the State of Gujarat an opportunity of filing a comprehensive affidavit dealing with various facets of the matter. Accordingly, the Court remanded the matter to the H.C.</p>

<p><i>Hon'ble Dr. Justice D. Y. Chandrachud</i></p>	<p><u>Mallada K Sri Ram v. The State of Telangana & Ors.</u></p> <p>Date: 04.04.2022 Bench Strength: 2 Judges</p>	<p><u>Criminal Law-Preventive Detention:</u></p> <p>While allowing an appeal against the judgment of the H.C. of Telangana dismissing a <i>Habeas Corpus</i> Petition filed against an order of detention under the Telangana Act of 1986, the Supreme Court held that a mere apprehension of a breach of law and order is not sufficient to meet the standard of adversely affecting the “maintenance of public order”. The Court further held that, in this case, the apprehension of a disturbance to public order owing to a crime which was reported over seven months prior to the detention order has no basis in fact. The apprehension of an adverse impact to public order is a mere surmise of the detaining authority, especially when there have been no reports of unrest since the detenu was already released on bail on 08.01.2021 and detained with effect from 26.06.2021. The nature of the allegations against the detenu are grave. However, the personal liberty of an accused cannot be sacrificed on the altar of preventive detention merely because a person is implicated in a criminal proceeding. The Court also observed that the case at hand was a clear example of non-application of mind to material circumstances having a bearing on the subjective satisfaction of the detaining authority.</p>
	<p><u>Shikhar & Anr. v. National Board of Examination & Ors.</u></p> <p>Date: 05.04.2022 Bench Strength: 3 Judges</p>	<p><u>Constitutional Law-Cut-off date for NEET-PG:</u></p> <p>The Supreme Court was considering a writ petition filed by doctors, who were aspirants of NEET- PG 2022 seeking to challenge the deadline set for completion of internship for appearing for NEET-PG 2022.</p> <p>The Court relied upon its Judgment in <i>Hirandra Kumar v. High Court of Judicature at Allahabad & Anr.</i> (2020) 17 SCC 401, wherein it was held that a cut-off date, or age limit does not become arbitrary and violative of Article 14 of the Constitution merely because certain candidates fall on the wrong side of it. A cut-off date or an age bar would always exclude some candidates. The determination of the cut-off date is within the sphere of the executive, and the Court cannot assume that function. Accordingly, the Court dismissed the writ petition.</p>

<p><i>Hon'ble Dr. Justice D. Y. Chandrachud</i></p>	<p><u>Ram Chander v. The State of Chhattisgarh & Anr.</u></p> <p>Date: 22.04.2022 Bench Strength: 2 Judges</p>	<p><u>Criminal Law-Remission of Sentence:</u></p> <p>The Supreme Court, while allowing a Writ Petition u/A. 32 of the Constitution of India filed by a convict undergoing a sentence of imprisonment for life u/S. 302 r/w. S. 149 of IPC, and whose prayer for remission was rejected by the State, held that the opinion of the presiding judge is in the teeth of the provisions of S. 432 (2) Cr.P.C., which require that the presiding judge's opinion must be accompanied by reasons.</p> <p>The Court further held that an opinion accompanied by inadequate reasoning would not satisfy the requirements of S. 432 (2) Cr.P.C. Further, it will not serve the purpose for which the exercise u/S. 432 (2) is to be undertaken, which is to enable the executive to make an informed decision taking into consideration all the relevant factors such as : -</p> <ul style="list-style-type: none"> (i) whether the offence affects the society at large; (ii) the probability of the crime being repeated; (iii) the potential of the convict to commit crimes in future; (iv) if any fruitful purpose is being served by keeping the convict in prison; and; (v) the socio-economic condition of the convict's family. <p>Accordingly, the Court directed re-consideration of the Petitioner's application for remission.</p>
	<p><u>The State of Maharashtra v. 63 Moons Technologies Ltd.</u></p> <p>Date: 22.04.2022 Bench Strength: 3 Judges</p>	<p><u>Civil Law-Attachment of property under the MPID Act:</u></p> <p>The Supreme Court was deciding a challenge raised by the State against an Order of the H.C. quashing notifications attaching the properties of the respondents u/S. 4 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999.</p> <p>The Court held that the State was justified in issuing the notifications, since the National Spot Exchange Ltd. (NSEL) represented that on receiving money and commodities, the members would receive assured returns. However, it failed to provide services as promised against the deposits, and failed to return the deposits on demand.</p>

<p><i>Hon'ble Dr. Justice D. Y. Chandrachud</i></p>		<p>Further, the Court also relied upon its Judgment in <i>KK Bhaskaran v. State</i> (2011) 3 SCC 793, which upheld the validity of the Tamil Nadu Protection of Interests of Depositors (in Financial Establishments) Act 1997, and held that the differences between the enactment in Tamil Nadu and Maharashtra are minor, and the view of the Court on the validity of the former will govern the validity of the latter enactment as well.</p>
	<p><u>Oil and Natural Gas Corporation Ltd. v. M/s Discovery Enterprises Pvt. Ltd. & Anr.</u></p> <p>Date: 27.04.2022 Bench Strength: 3 Judges</p>	<p><u>Arbitration Law-Arbitration Agreement binding on non-signatory:</u></p> <p>The Supreme Court was considering a challenge to an interim award directing deletion of a party, who was not a party to the arbitration agreement. It was held that the group of companies doctrine can be applied to bind non-signatories to an arbitration agreement. In deciding whether a company within a group of companies which is not a signatory to an arbitration agreement would nonetheless be bound by it, the law considers : (i) Mutual intent of the parties; (ii) Relationship of a non-signatory to a party which is a signatory to the agreement; (iii) Commonality of the subject matter; (iv) Composite nature of the transaction; and (v) Performance of the contract. Accordingly, the Court set aside the interim award passed by the arbitral tribunal.</p>
	<p><u>Ranbir Singh v. S.K. Roy, Chairman, Life Insurance Corporation of India & Anr.</u></p> <p>Date: 27.04.2022 Bench Strength: 3 Judges</p>	<p><u>Service Law-Absorption of LIC Employees:</u></p> <p>The Supreme Court, while deciding the claim of LIC Employees seeking absorption of their services held that Reg. 8(2) of the Staff Regulations does not postulate an absolute bar to absorption, but stipulates that absorption cannot be claimed merely on the ground that a person was engaged on temporary basis. The mere fact that a person is appointed in a temporary capacity by LIC, does not entitle such a person <i>ipso jure</i> to seek absorption merely by virtue of such an appointment. It was held that the LIC as a statutory corporation is bound by the mandate of Art. 14 and 16 of the CoI. As a public employer, the recruitment process of the corporation must meet the constitutional standard of a fair and open process. Accordingly, the Court issued certain directions (in the facts of the case), and disposed of the appeals.</p>

 <p>Hon'ble Mr. Justice Sanjay Kishan Kaul</p>	<p><u>Ashutosh Kumar v. The Film And Television Institute Of India & Anr.</u></p> <p>Date: 12.04.2022 Bench Strength: 2 Judges</p>	<p><u>Civil Law-Admission of Colour Blind Candidates into FTII:</u></p> <p>The Supreme Court was considering a case where a colour blind person was excluded from pursuing a course for Diploma in Editing in the Films and Television Institute of India, Pune (FTII). The Court formed a 7-Member Committee, which prepared a detailed report recommending that individuals with colour blindness should be permitted to enroll for all courses offered by the FTII.</p> <p>Adopting the report of the Committee, the Supreme Court held that all individuals with colour blindness should be permitted to enroll for all courses offered by FTII, and any limitation can be overcome. The FTII should make accommodation in their curriculum for candidates with colour blindness, and the 20 minute obstructive element of colour grading module in the existing Diploma in Film Editing course curriculum should be excluded or made elective.</p>
 <p>Hon'ble Mr. Justice S. Abdul Nazeer</p>	<p><u>K.C. Laxmana v. K.C. Chandrappa Gowda & Anr.</u></p> <p>Date: 19.04.2022 Bench Strength: 2 Judges</p>	<p><u>Civil Law-Gift of ancestral property:</u></p> <p>The Supreme Court, while deciding the period of limitation for filing a suit to set aside the alienation of joint hindu family property held that Article 109 of the Limitation Act would apply to the same. Article 58 pertains to declaratory suits, but Article 109 is a special article applicable to cases where the alienation of the father is challenged by the son and the property is ancestral, and the parties are governed by Mitakshara law. It was held that where a statute contains both general provisions as well as specific provisions, the latter must prevail. It was held that "alienation" mentioned in Article 109 would include a gift. It was held that a Hindu father or any other managing member of a HUF has power to make a gift of ancestral property only for a 'pious purpose' i.e. charitable and / or religious purpose. Therefore, a deed of gift in regard to the ancestral property executed 'out of love and affection' does not come within the scope of the term 'pious purpose'. Accordingly, the Court upheld the Order of the H.C. which declared the gift of the ancestral property as null and void.</p>

	<p><u>Ramveer Upadhyay & Anr. v. State of U.P. & Anr.</u></p>	<p><u>Criminal Law-Quashing of Complaint:</u></p>
<p>Hon'ble Justice Ms. Indira Banerjee</p>	<p>Date: 20.04.2022 Bench Strength: 2 Judges</p>	<p>The Supreme Court upheld the decision of the High Court of Judicature at Allahabad, dismissing the application filed by the Petitioner u/S. 482 Cr.P.C., which challenged the Cognizance Order of the Trial Court u/S. 365 r.w. S. 511 I.P.C. & S. 3(1)(Dha) of Scheduled Castes & Scheduled Tribes (Prevention of Atrocities Act), 1989. The Court, while dismissing the SLP, held:-</p> <ul style="list-style-type: none">(i) The allegations constitute an offence under the Atrocities Act;(ii) Whether the allegations are true or untrue, would have to be decided in the trial. In exercise of powers u/S. 482 of the Cr.P.C., the Court does not examine the correctness of the allegations in a complaint, except in exceptionally rare cases where it is patently clear that the allegations are frivolous;(iii) Criminal proceedings cannot be quashed only because the complaint was lodged by a political rival;(iv) It is possible that a false complaint may have been lodged at the behest of a political opponent. However, such possibility would not justify interference u/S. 482 of the Cr.P.C.
	<p><u>Balram Garg v. Securities and Exchange Board of India</u></p>	<p><u>Securities Law-Insider Trading:</u></p>
<p>Hon'ble Justice Mr. Vineet Saran</p>	<p>Date: 19.04.2022 Bench Strength: 2 Judges</p>	<p>The Supreme Court allowed appeals challenging the order of the Securities Appellate Tribunal, which upheld the order of the Whole Time Member of SEBI, penalising the appellants for insider trading. The Court held that insider trading cannot be presumed merely on the basis of proximity between the parties. It was held that the 'communication' of Unpublished Price Sensitive Information under Reg. 3(1) of the SEBI (Prohibition of Insider Trading), 2015 ought to be proved by producing cogent materials, like, letters, emails, witnesses etc. and not be deemed owing to the alleged proximity between the parties. The Court further held that the onus is on the SEBI to prove such communication, and that the SEBI failed to prove that the said appellants were "connected persons" to Balram Garg as required by Reg. 2(1)(d)(ii)(a) r/w Reg. 2(1)(f) of the PIT Regulations as they were not financially dependent on him or alleged to have consulted him in any decision related to trading in securities.</p>

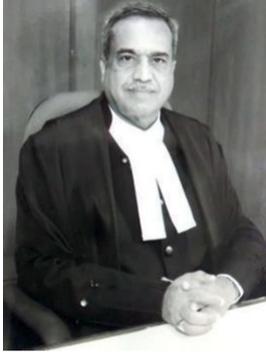
 <p>Hon'ble Justice Joseph Mr. K.M.</p>	<p><u>Goa Public Service Commission v. Pankaj Rane & Ors.</u></p> <p>Date: 06.04.2022 Bench Strength: 2 Judges</p>	<p><u>Service Law-Appointment of candidates:</u></p> <p>The Supreme Court was deciding an appeal filed by the Goa Public Service Commission against an Order of the H.C. holding that its action of not recommending the names of the respondents for appointment was beyond its powers. In this case, the Goa Public Service Commission did not recommend the respondents for appointment on the ground that they did not obtain the minimum qualifying marks in the interview.</p> <p>On a reading of the Goa Civil Service Rules, 2016, the Supreme Court concluded that the Rules did not provide for any minimum marks to be obtained by a candidate in the interview. Accordingly, the Court dismissed the appeal, and upheld the decision of the H.C.</p>
	<p><u>Eastern Coalfields Limited & Ors. v. Rabindra Kumar Bharti</u></p> <p>Date: 07.04.2022 Bench Strength: 2 Judges</p>	<p><u>Civil Law-Power of Appellate Courts under Order 41 Rule 33 of CPC:</u></p> <p>The Supreme Court while considering an SLP challenging the High Court's order staying the dismissal of an employee till the disposal of the criminal proceedings, invoking powers under Order 41 Rule 33 of CPC, held that although Order 41 Rule 33 of CPC clothes appellate courts with extraordinary power, it is to be exercised only in exceptional cases.</p> <p>The Court, while reversing the decision of the High Court held as under -</p> <p>(i) Order 41 Rule 33 CPC no doubt clothes the appellate court with an extraordinary power, which however is a rare jurisdiction. It is to reach justice in the special facts of a case.</p> <p>(ii) It is not an ordinary rule to be applied across the board in all appeals. In fact, the principle is <i>inter alia</i> that even if there is no appeal by any of the parties in the proceedings, an order can be passed in his favour in the appeal carried by the other side. In this case, there was no order against the appellant by the Ld. Single Judge, and the order of dismissal was not specifically the subject matter of challenge.</p>

<p><i>Hon'ble Mr. Justice K.M. Joseph</i></p>	<p><u>Augustan Textile Colours Limited (Now Augustan Textile Colours Pvt Limited) v. Director of Industries & Anr.</u></p> <p>Date: 08.04.2022 Bench Strength: 2 Judges</p>	<p><u>Tax Law-Exemption:</u></p> <p>While considering the issue whether the benefit of tax exemption in respect of works contracts granted in the process of revival of the industry under the Sick Industrial Companies Act, 1985 can be withdrawn by a subsequent government order, Justice Joseph held that the Appellant-Company availed the benefit of exemption for 4 years, and there must be an outer-limit to an exemption. Accordingly, Justice Joseph concurred with the view of Justice Roy holding that such an exemption could be subsequently withdrawn.</p> <p><u>NOTE</u> : Justice Hrishikesh Roy authored the main judgment, with Justice K.M. Joseph delivering a concurring opinion.</p>
	<p><u>Jahir Hak v. The State of Rajasthan</u></p> <p>Date: 11.04.2022 Bench Strength: 2 Judges</p>	<p><u>Criminal Law-Grant of Bail:</u></p> <p>The Supreme Court granted bail to an Accused who was charged under Sections 10, 13, 15, 16, 17, 18, 18A, 18B, 19, 20, 23 and 38 of the Unlawful Activities (Prevention) Act, 1967, on the grounds that -</p> <p>(i) The Accused was an undertrial prisoner who had served for nearly 8 years;</p> <p>(ii) One of the co-accused namely had been released on bail on 30.09.2020 by the Supreme Court;</p> <p>(iii) Only 6 out of 109 witnesses were examined by the prosecution, and there was nothing in the deposition of the said witnesses which implicated the Accused.</p>
	<p><u>Nemai Chandra Dey (Dead) Through LRs. v. Prasanta Chandra (Dead) Through LRs & Anr.</u></p> <p>Date: 19.04.2022 Bench Strength: 2 Judges</p>	<p><u>Civil Law-Powers of First Appellate Court:</u></p> <p>The Supreme Court while remanding the matter to the First Appellate Court held that it did not deal with the Appeal within the confines of law and keeping in mind the principles which have been enumerated under Order XLI Rule 31 of CPC. The Court held that the law contemplates that a party aggrieved by the decision of the Trial Court gets full opportunity to have his grievance investigated by the First Appellate Court which is expected to re-appreciate the evidence and consider the matter, unless it purports to invoke the power under Order XLI Rule 11.</p>

<p><i>Hon'ble Mr. Justice K.M. Joseph</i></p>	<p>U.P. Awas Evam Vikas Parishad through Housing Commissioner v. Ram Singh (D) through LRs.</p> <p>Date: 20.04.2022 Bench Strength: 2 Judges</p>	<p><u>Land Acquisition-Withdrawal of acquisition:</u></p> <p>The Supreme Court held that when the actual possession of the land was not taken under the Land Acquisition Act, it is open in an appropriate case and bearing in mind public interest, for the Government to withdraw from the acquisition u/S. 48 of the Act. It is the duty of the authority to be mindful of all relevant inputs before it takes a decision to withdraw from the acquisition. Withdrawal from the acquisition must be preceded by offering an opportunity to the beneficiary at whose instance the acquisition is to be made. Such withdrawal from acquisition can be made only by issuance of a Notification.</p>
	<p>Delhi Development Authority v. Bhim Sain Goel & Ors.</p> <p>Date: 25.04.2022 Bench Strength: 2 Judges</p>	<p><u>Land Acquisition-Lapsing of acquisition:</u></p> <p>The Supreme Court was considering a challenge to a Judgment of the H.C. declaring that the acquisition proceedings with respect to the respondents' land had lapsed u/S. 24(2) of the Right to Fair Compensation Act, 2013. While setting aside the Judgment of the H.C., the Supreme Court held that the respondents cannot take shelter u/S. 24(2) of the 2013 Act, since it is by their conduct in approaching the Courts and obtaining interim orders that the appellant was prevented from taking possession of the lands. The Court, however, granted liberty to the land owners to file an application for enhancement of compensation u/S. 18 of the Land Acquisition Act, 1894.</p>
	<p>New Delhi Municipal Council v. Minosha India Ltd.</p> <p>Date: 27.04.2022 Bench Strength: 2 Judges</p>	<p><u>Insolvency & Bankruptcy Code-Appointment of Arbitrator by Corporate Debtor:</u></p> <p>The Supreme Court was considering a challenge to an Order of appointment of an arbitrator at the instance of the corporate debtor, after the insolvency resolution plan was approved. It was held that the provisions of the IBC do not stand in the way of the corporate debtor instituting or proceeding with a suit, or a proceeding against others. Section 60(6) of the IBC excludes the period during which the Moratorium u/S. 14 is in place in computing the period of limitation. S. 60(6) of the IBC contemplates exclusion of the entire period during which the moratorium was in force in respect of the corporate debtor in regard to a proceeding, as contemplated therein at the hands of the corporate debtor. Accordingly, the Court upheld the Order of the H.C. appointing an arbitrator.</p>

	<p><u>The State of Haryana Through Secretary to Government Of Haryana v. Jai Singh & Ors.</u></p>	<p><u>Civil Law-Validity of 1992 Amendment to Punjab Village Common Lands Act:</u></p>
<p>Hon'ble Mr. Justice Hemant Gupta</p>	<p>Date: 07.04.2022 Bench Strength: 2 Judges</p>	<p>The Supreme Court was considering a challenge to the judgment of the Full Bench of the H.C. striking down the 1992 amendments to the Punjab Village Common Lands (Regulation) Act, 1961. The Court held that common land u/S. 2(g)(1) and (6) of the Punjab Act is a part of agrarian reforms, and therefore protected by Article 31A of the Constitution of India. It was held that the entire land reserved for common purposes by applying pro-rata cut had to be utilized by the Gram Panchayat for the present and future needs of the village community, and that no part of the land can be re-partitioned amongst the proprietors. Accordingly, the Court upheld the validity of the amendment.</p>
	<p><u>Shankarlal Nadani v. Sohanlal Jain</u></p>	<p><u>Civil Law-Eviction Decree passed by Civil Court:</u></p>
	<p>Date: 12.04.2022 Bench Strength: 2 Judges</p>	<p>The Supreme Court was considering a case where during the pendency of the eviction suit before the Civil Court, a notification was issued extending the provisions of the Rajasthan Rent Control Act, 2001, thereby conferring jurisdiction upon the Rent Tribunal. The Court held that a decree of eviction passed by the Civil Court in a suit filed before the applicability of the Rajasthan Rent Control Act is valid and executable. It was held that a suit filed before the civil court prior to the applicability of the Act has to be decided by the civil court. A decree passed by the civil court is valid and executable, which is not interdicted by the applicability of the Rent Control Act.</p>
	<p><u>Sanjay Gupta & Ors. v. State of Uttar Pradesh Through Its Chief Secretary & Ors.</u></p>	<p><u>Civil Law-Determination of Compensation:</u></p>
	<p>Date: 12.04.2022 Bench Strength: 2 Judges</p>	<p>The Supreme Court while deciding a Writ Petition preferred by the victims of the fire tragedy which occurred on 10.04.2006 i.e. the last day of the India Brand Consumer Show organized at Victoria Park, Meerut, Uttar Pradesh, where 65 persons died and 161 injured, held as under:- i) The Court Commissioner rightly fixed the liability on the Organizers / Respondent Nos. 10-12, to the extent of 60%, and on account of negligence in performing statutory duties by the officers of the State, the State / Respondent No.1 has been burdened with 40% of the total liability;</p>

<p><i>Hon'ble Mr. Justice Hemant Gupta</i></p>		<p>ii) The amount of compensation payable to each of the victim including the families of the deceased is required to be computed in accordance with the principles of just compensation as in the case of accident under the Motor Vehicle Act, 1988 by the Motor Accidents Claims Tribunal; iii) the Hon'ble Chief Justice of the High Court to entrust the work of determination of compensation to a Judicial Officer in the rank of District Judge / ADJ at Meerut within 2 weeks.</p>
	<p><u>The National Medical Commission v. Pooja Thandu Naresh & Ors.</u></p> <p>Date: 29.04.2022 Bench Strength: 2 Judges</p>	<p><u>Education matters-Grant of Provisional Registration to medical students:</u></p> <p>The Supreme Court was considering a challenge to a judgment of the H.C. quashing 2 notifications issued by the Tamil Nadu Medical Council, and consequently directing the NMC to grant provisional registration to students, who had obtained their MBBS Degrees from other countries, and had attended clinical training of some subjects online, owing to the pandemic. It was held that the NMC is not bound to grant provisional registration to a student who has not completed the entire duration of the course from the Foreign Institute, including the clinical training. The Court directed the NMC to frame a scheme as a one-time measure to allow students who have not actually completed clinical training to undergo clinical training in India in medical colleges which may be identified by it for a limited duration, on such charges which it determines.</p>
	<p><u>Waqf Board, Rajasthan v. Jindal Saw Ltd. & Ors.</u></p> <p>Date: 29.04.2022 Bench Strength: 2 Judges</p>	<p><u>Religious & Charitable Endowments-WAKF Board matters:</u></p> <p>The Supreme Court, while dismissing an Appeal filed by the Waqf Board, Rajasthan, against the decision of the High Court which had directed the Waqf Board not to interfere with the action of removal of the structure forming part of Khasra No. 6731 at Village Pur, Bhilwara, Rajasthan, held that, in absence of proof of 'dedication' or 'user' or 'grant', which would qualify a dilapidated wall or a platform as 'waqf' in terms of Section 3(r) of the Waqf Act, 1995, the said structure cannot be recognised as a religious place for offering Namaaz. The High Court's order was upheld which allowed Jindal Saw Limited to remove a structure from the plot allotted to it for mining, which the Waqf Board, Rajasthan claimed as a religious place.</p>



Hon'ble Mr. Justice Mukesh Kumar Rasikbhai Shah

[The State of Uttar Pradesh v. Subhash @ Pappu](#)

Date: 01.04.2022
Bench Strength: 2 Judges

[Criminal Law-Appeal against Acquittal:](#)

The Supreme Court, on an Appeal filed by the State of Uttar Pradesh, reversed the Judgment of Acquittal of the H.C. of Judicature at Allahabad and convicted the Accused / Respondent u/s. 304 Part 1 read with Section 149 of IPC.

The Court reiterated the position of law that mere non-framing of a charge u/S. 149 I.P.C. would not vitiate the conviction in the absence of any prejudice caused to them.

The Court discussed the operation of S.464 Cr.P.C. and observed that mere defect in language, or in narration or in the form of charge would not render conviction unsustainable, provided the accused is not prejudiced thereby, and if the ingredients of the section are obvious or implicit in the charge framed, then the conviction in regard thereto can be sustained, irrespective of the fact that said section has not been mentioned.

On the issue of non-recovery of weapon, the Court observed that merely because the weapon used is not recovered, cannot be a ground not to rely upon the dying declaration, which was recorded before the Executive Magistrate, which has been proved by the prosecution.

[Union of India & Ors. v. Shri C.R. Madhava Murthy & Anr.](#)

Date: 06.04.2022
Bench Strength: 2 Judges

[Service Law-MACP Scheme:](#)

The Supreme Court dismissed the Appeal of the Union of India, which was filed against the Judgment of H.C. of Karnataka directing the Union to step up the pay of the Private Respondents / Employees in the Central Excise and Customs Department, from the date their juniors started drawing more salaries.

The Court also held that, the High Court, while dealing with an anomaly of granting upgradation under the ACP Scheme, when the juniors of the Respondents were getting higher salaries, rightly considered Fundamental Rule 22 and directed stepping up of their pay.

<i>Hon'ble Mr. Justice Mukeshkumar Rasikbhai Shah</i>	<u>Union of India v. Premlata and Others</u> Date: 06.04.2022 Bench Strength: 2 Judges	<u>Land Acquisition-Determination of Market Value:</u> The Supreme Court modified the Judgment of the H.C. which determined the compensation for the acquired land at the rate of Rs.6/- per square foot, subject to 1/3rd deduction, to the extent of increasing the deduction to 40% towards the development charges. The Court held that the H.C. and the Reference Court rightly arrived at the per square foot rate of compensation while observing that the sale instances with respect to small plots / parcels of land are not comparable to a large extent of land (as in the present case i.e. 45 Hectars) for the purpose of determining compensation. The Court while arriving at the deduction of 40% as development charges, considered the fact that the land acquired in question was a large extent of land, and that it was an agricultural land, not fully developed. The Court observed that the landowner did not produce any sale deeds relating to large pieces of land sold in acres to prove the market value of the acquired land and on the contrary, the Sale exemplars relied upon by the landowner pertain to very small plots / parcels of land.
	<u>State of Rajasthan v. Banwari Lal & Anr.</u> Date: 08.04.2022 Bench Strength: 2 Judges	<u>Criminal Law-Sentencing:</u> The Supreme Court, on an Appeal filed by the State, set aside the Judgment of the H.C. to the extent that it reduced the sentence given to the Respondent No.1 / Accused from 3 years R.I. to the period already undergone (44 days) in a case involving charges u/S. 307 of I.P.C. The Court held that merely because a long period lapsed by the time the appeal is decided, cannot be a ground to award the punishment which is disproportionate and inadequate. The Court also observed that in some cases, the convictions u/S. 302 IPC are converted to Sec. 304 Part I or Section 304 Part II IPC without assigning any adequate reasons. In cases like the present one, the Court observed that the Accused did not press any challenge to the conviction and prayed for reduction in sentence, and an inadequate and inappropriate sentence was imposed without assigning any reasons and without adverting to the relevant factors which are required to be considered while imposing appropriate punishment / sentence.

<p><i>Hon'ble Mr. Justice Mukeshkumar Rasikbhai Shah</i></p>	<p><u>P. Ramasubamma v. V. Vijayalakshmi & Ors.</u></p> <p>Date: 11.04.2022 Bench Strength: 2 Judges</p>	<p><u>Civil Law-Specific performance:</u></p> <p>The Supreme Court was considering a challenge to an Order of the H.C. setting aside a decree of specific performance granted in favour of the Petitioner-original plaintiff. It was held that the H.C. was not required to go into the aspect of the execution of the agreement to sell and the payment / receipt of substantial advance sale consideration, once the vendor had specifically admitted the execution of the agreement to sell and receipt of advance sale consideration; thereafter no further evidence and / or proof was required. Accordingly, the Court set aside the Order of the H.C., and upheld the decree of specific performance.</p>
	<p><u>Indresh Kumar Mishra & Ors. v. The State of Jharkhand & Ors.</u></p> <p>Date: 13.04.2022 Bench Strength: 2 Judges</p>	<p><u>Service Law-Qualifications as per advertisement:</u></p> <p>In this case, the Petitioners applied for the post of Graduate / Post Graduate History Teachers. At the time of verification of documents, it came to light that they were possessing degrees in only certain branches of History, and not History as a whole. Accordingly, their candidature was cancelled. The Supreme Court held that once it was found that the petitioners did not possess the requisite qualification as per the advertisement (i.e. Postgraduate / Bachelor degree in History as a whole), their candidature was rightly cancelled. It was held that there is no ambiguity in the advertisement providing educational qualification and the post for which the applications were invited (History / Civics). There cannot be any deviation from the educational qualifications mentioned in the advertisement. Accordingly, the Court upheld the cancellation of candidature of the Petitioners.</p>
	<p><u>Vallampati Sathish Babu v. The State of Andhra Pradesh & Ors.</u></p> <p>Date: 19.04.2022 Bench Strength: 2 Judges</p>	<p><u>Service Law-Unfilled vacancy:</u></p> <p>The Supreme Court, while deciding whether the Appellant (who was next in merit) can be appointed to a post which remained unfilled due to a selected candidate not appearing for counselling, held that the Appellant had no right to claim appointment to the said post, since there was no specific provision for waiting list, and on the contrary, there was a specific provision that the post remaining unfilled shall be carried forward for the next recruitment.</p>

<p><i>Hon'ble Mr. Justice Mukeshkumar Rasikbhai Shah</i></p>		<p>It was held that since the post remained unfilled due to the selected candidate not appearing for counselling, the post had to be carried forward for the next recruitment. Accordingly, the Supreme Court upheld the Order of the H.C. dismissing the claim of the Appellant to be appointed on the unfilled vacancy.</p>
	<p><u>State of Uttarakhand & Anr. v. Mayan Pal Singh Verma</u> Date: 19.04.2022 Bench Strength: 2 Judges</p>	<p><u>Service Law-Duty of High Court to pass reasoned Order:</u> The Supreme Court was considering a challenge by the State against an Order of the H.C. directing the State to comply with an order of the Uttarakhand Public Service Tribunal, which was impugned before it, without any discussion on the merits of the matter. The Supreme Court held that when a number of issues / grounds were raised in the writ petition, there was a duty cast upon the H.C. to deal with the same and thereafter, to pass a reasoned order. Accordingly, the Court remanded the matter to the H.C. for re-consideration.</p>
	<p><u>Evergreen Land Mark Pvt. Ltd. v. John Tinson & Company Pvt. Ltd. & Anr.</u> Date: 19.04.2022 Bench Strength: 2 Judges</p>	<p><u>Arbitration Law-Power of Tribunal to grant interim measures:</u> While deciding a challenge against an Order of the H.C. confirming the interim award passed by the Arbitral Tribunal directing the Petitioner to deposit the disputed amount, the Supreme Court held that where there is a serious dispute with respect to the amounts to be paid, no order could be passed by the Arbitral Tribunal u/S. 17 of the Arbitration & Conciliation Act. Accordingly, the Court modified the interim order to the extent that the Appellant was directed to deposit only the amount for the period other than the disputed period.</p>
	<p><u>V G Jagdishan v. M/s. Indofos Industries Limited</u> Date: 19.04.2022 Bench Strength: 2 Judges</p>	<p><u>Labour Law-Territorial jurisdiction of Labour Court:</u> The Supreme Court was considering a challenge to concurrent dismissal of the complaint of the Petitioner-workman by the Labour Court, Delhi (as upheld by the H.C.) on the ground that it did not have territorial jurisdiction. It was not in dispute that the Petitioner was employed as a driver at Ghaziabad, he was working at Ghaziabad, and his services were retrenched at Ghaziabad. It was held that merely because the workman shifted to Delhi after retrenchment, and sent a demand notice from Delhi, and the Head Office of the Management was at Delhi, it cannot be said that a part cause of action arose at Delhi. Accordingly, the Court dismissed the Appeal.</p>

<p><i>Hon'ble Mr. Justice Mukeshkumar Rasikbhai Shah</i></p>	<p><u>Union of India and Others v. M. Duraisamy</u></p> <p>Date: 19.04.2022 Bench Strength: 2 Judges</p>	<p><u>Service Law-Proportionality of punishment:</u></p> <p>The Supreme Court held that in a departmental enquiry against a delinquent employee, no leniency can be shown merely because the employee deposited the amount defrauded. In this case, the employee admitted that he had defrauded the department. The Disciplinary Authority imposed the punishment of “removal” upon the employee. The CAT modified the punishment to one of “compulsory retirement”. The H.C. affirmed the same. While allowing the present appeal, the Supreme Court held that once a conscious decision was taken by the Disciplinary Authority to remove an employee on the proved misconduct of a very serious nature of defrauding public money, neither the Tribunal nor the H.C. should have interfered with the order of punishment imposed by the Disciplinary Authority, which was after considering the gravity and seriousness of the misconduct. Merely because the employee had worked for 39 years, or that he voluntarily deposited the defrauded amount along with penal interest, and therefore there was no loss to the Department, cannot be a ground to interfere with the order of punishment imposed by the Disciplinary Authority. Accordingly, the Court dismissed the employee from service.</p>
	<p><u>Sunil Kumar Jain & Ors. v. Sundaresh Bhatt & Ors.</u></p> <p>Date: 19.04.2022 Bench Strength: 2 Judges</p>	<p><u>Insolvency and Bankruptcy Code- Wages and Salaries of Employees:</u></p> <p>The Supreme Court held that that the salaries of employees of the CD for the period during CIRP can be included in the CIRP costs, provided it is proved that the IRP / RP managed the operations of the corporate debtor as a going concern during the CIRP, and that the concerned workmen / employees of the corporate debtor actually worked during the CIRP. The same shall be payable in full first as per Section 53(1)(a) of the IBC. It was further held that the dues of the workmen / employees on account of provident fund, gratuity and pension shall be governed by S. 36(4) of the IBC, and the concerned workmen / employees shall be entitled to provident fund, gratuity fund and pension fund from such funds which are specifically kept out of liquidation estate assets, and as per S. 36(4) IBC, they are not to be used for recovery in the liquidation.</p>

<p><i>Hon'ble Mr. Justice Mukeshkumar Rasikbhai Shah</i></p>	<p><u>M/s Tirupati Steels v. M/s Shubh Industrial Component & Anr.</u></p> <p>Date: 19.04.2022 Bench Strength: 2 Judges</p>	<p><u>Arbitration-Pre-deposit under the MSME Act:</u></p> <p>The Supreme Court, while relying on its judgments in <i>Gujarat State Disaster Management Authority v. Aska Equipments Limited</i> (2022) 1 SCC 61 and <i>Goodyear (India) Ltd. v. Norton Intech Rubbers (P) Ltd.</i> (2012) 6 SCC 345 held that the requirement of deposit of 75% of the amount in terms of the award as a pre-deposit as per S. 19 of the MSME Act is mandatory. The Court concluded that the Order of the H.C. permitting the proceedings u/S. 34 of the Arbitration Act without insistence for making pre-deposit of 75% of the awarded amount was unsustainable, and the same was set aside.</p>
	<p><u>Ramrao Shankar Tapase v. Maharashtra Industrial Development Corporation & Ors.</u></p> <p>Date: 19.04.2022 Bench Strength: 2 Judges</p>	<p><u>Land Acquisition-Quantum of Compensation:</u></p> <p>The Supreme Court, while deciding Appeals filed by land owners seeking enhancement of compensation, relied upon its Judgment in <i>Pehlad Ram v. Haryana Urban Development Authority</i> (2014) 14 SCC 778, and held that a cumulative increase of 10-15% per year in the market value of the land may be accepted. Accordingly, the Court modified the judgment of the H.C. to the extent that instead of a 10% cumulative increase, the Supreme Court granted a 12% cumulative increase. Further, it was held that the future use of the acquired land cannot be the main criteria to determine the compensation for the lands acquired. Accordingly, the Court enhanced the compensation to the aforesaid extent.</p>
	<p><u>Indrajeet Yadav v. Santosh Singh and Anr.</u></p> <p>Date: 19.04.2022 Bench Strength: 2 Judges</p>	<p><u>Criminal Law-Reasoned order to be passed on the same day:</u></p> <p>The Supreme Court was deciding an appeal filed by a Complainant against an Order of the H.C. acquitting the Accused persons for offences u/S. 302 I.P.C. Relying on its Judgment in <i>Balaji Baliram Mupade & Anr. v. The State of Maharashtra</i> [Civil Appeal No.3564 of 2020], the S.C. deprecated the practice of pronouncing the final order without a reasoned judgment. In this case, the H.C. pronounced the operative part of the Judgment, and the reasons were pronounced about 5 months later. The S.C. accordingly set aside the Order of the H.C., and remanded the matter for re-consideration.</p>

<p><i>Hon'ble Mr. Justice Mukeshkumar Rasikbhai Shah</i></p>	<p>Sh. Ram Chander (Dead) Thr Lrs. v. Union Of India</p> <p>Date: 20.04.2022 Bench Strength: 2 Judges</p>	<p><u>Land Acquisition-Quantum of compensation:</u></p> <p>The Supreme Court was deciding a challenge raised by landowners against an order of the H.C. dismissing their recall application, which was filed on the ground that the decision relied upon by the H.C. was set aside by the Supreme Court in another judgment. The Supreme Court held that due to its decision, the ground on which the H.C. dismissed the re-call application was not available. Accordingly, the Court set aside the order of the H.C., and directed that the landowners be paid compensation.</p>
	<p>Anil Kumar Upadhyay v. The Director General, SSB & Ors.</p> <p>Date: 20.04.2022 Bench Strength: 2 Judges</p>	<p><u>Service Law-Proportionality of punishment:</u></p> <p>In this case, the Appellant (Head Constable) was removed from service since he entered the Mahila Barrack of the Battalion around midnight. He was charged with indisciplined conduct relating to compromising the security of the occupants of the Mahila Barrack. The Supreme Court observed that the punishment of 'removal from service' was imposed upon the Appellant after conducting an enquiry following the relevant rules. Further, merely because one of the employees was inflicted with a lesser punishment cannot be a ground to hold the punishment imposed on another employee as disproportionate. There cannot be negative discrimination. The punishment to be imposed on a particular employee depends on various factors, such as the position of the employee in the department, role attributed to him and the nature of allegations against him. Accordingly, the Court upheld the punishment of removal from service imposed upon the Appellant.</p>
	<p>Dr. Jacob Thudipara v. The State of Madhya Pradesh & Ors.</p> <p>Date: 21.04.2022 Bench Strength: 2 Judges</p>	<p><u>Service Law-Enhanced age of superannuation:</u></p> <p>While reversing an Order of the H.C., which held that the Appellant (teacher) is not entitled to the benefits of enhanced age of superannuation of 65 years at par with his counterpart teachers serving in Government Colleges and Universities, the Supreme Court held that the Judgment on the basis of which the H.C. had passed its Order was subsequently set aside by the S.C., and therefore, the decision of the H.C. ought to be reversed.</p>

<p><i>Hon'ble Mr. Justice Mukeshkumar Rasikbhai Shah</i></p>		<p>Accordingly, the Supreme Court concluded that the Appellant was entitled to the benefit of enhanced age of superannuation i.e., 65 years, and all consequential and monetary benefits including arrears of salaries and etc., as if, he would have been continued up to the age of 65 years. It was directed that the arrears be paid within 6 weeks.</p>
	<p>M/s Indian Oil Corporation Ltd. v. Shri Rajendra D. Harmalkar</p> <p>Date: 21.04.2022 Bench Strength: 2 Judges</p>	<p><u>Service Law-Proportionality of punishment:</u></p> <p>The Supreme Court was considering a challenge to a judgment of the H.C. substituting the punishment of dismissal of service, to re-instatement without backwages. In this case, the Respondent-Employee was dismissed from service by the Disciplinary Authority for producing a fabricated SSLC. The Court held that producing the false / fake certificate is a grave misconduct. The question is one of trust. The question is not of having an intention or <i>mens rea</i>. The Court held that the Disciplinary Authority was justified in imposing the punishment of dismissal from service. Accordingly, the Court set aside the order of the H.C., and upheld the dismissal of the employee from service.</p>
	<p>Shraddha Gupta v. The State of Uttar Pradesh & Ors.</p> <p>Date: 26.04.2022 Bench Strength: 2 Judges</p>	<p><u>Criminal Law-Quashing of Proceedings under Gangster Act:</u></p> <p>The Supreme Court while upholding the order passed by the Allahabad High Court which had dismissed the Writ Petition to quash the criminal proceedings u/S. 2 and 3 of the U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986, held that: (i) A member of a 'Gang' acting either singly or collectively may be termed as a member of the 'Gang' and comes within the definition of 'Gang', provided he / she is found to have indulged in any of the anti-social activities mentioned in S.2(b) of the Gangsters Act. (ii) A single crime committed by a 'Gang' is sufficient to invoke Gangsters Act on such members of the 'Gang'. The definition clause does not engulf plurality of offence before the Gangsters Act is invoked. (iii) A group of persons may act collectively or anyone of the members of the group may also act singly, with the object of disturbing public order indulging in anti-social activities mentioned in S. 2(b) of the Gangsters Act, who can be termed as 'Gangster'.</p>

<p><i>Hon'ble Mr. Justice Mukeshkumar Rasikbhai Shah</i></p>	<p><u>Union of India & Ors. v. Mukesh Kumar Meena</u></p> <p>Date: 28.04.2022 Bench Strength: 2 Judges</p>	<p><u>Service Law-Grace Marks policy of CBDT:</u></p> <p>The Supreme Court held that the grace marks policy declared by the Central Board of Direct Taxes was not to allow the reserved category candidate to switch over to general category. The contention of the Respondent (who belonged to the ST Category) that he be granted grace marks, so that he can be treated as a general category candidate and can seek promotion in that category was rejected by the Court.</p> <p>The CBDT introduced the grace marks policy with the purpose of enabling the marginally failing candidates to pass in the examination. Once the Respondent passed in his own category, there was no question of granting him any further grace marks. It was held that the policy was never meant for a person, who has passed in his own category and still to allow him further grace marks to enable him to move to the general category. Accordingly, the Court set aside the Order of the H.C., which had directed granting of grace marks to the Respondents, in order to treat him as a candidate of the general category.</p>
	<p><u>Bharat Sanchar Nigam Limited & Anr. v. Sandeep Choudhary & Ors.</u></p> <p>Date: 28.04.2022 Bench Strength: 2 Judges</p>	<p><u>Service Law-Unreserved category candidate on reserve category seat:</u></p> <p>The Supreme Court was considering the issue whether in a case where a reserved category candidate secured more marks than a general category candidate, such reserved category candidate will have to be first adjusted in the general category pool, and they shall be considered for appointment in the general category pool, or against the vacancies meant for reserved category candidates. Relying upon its Judgments in <i>Saurav Yadav v. State of U.P.</i>, (2021) 4 SCC 542 and <i>Sadhana Singh Dangi v. Pinki Asati</i>, (2022) 1 SCALE 534, it was held that reserved category candidates securing higher marks than the last of the general category candidates are entitled to get seat / post in unreserved categories. However, in the facts of the present case, considering that 2 general category candidates were already appointed, the court exercised its powers under Article 142, and directed that on appointment of the reserved category candidates, the general category candidates shall not be removed.</p>



Hon'ble Justice Rastogi Mr. Ajay

[Harish Chandra Shrivastava v. The State of Bihar & Ors.](#)

Date: 13.04.2022
Bench Strength: 2 Judges

[Service Law-Absorption of employees:](#)

The Supreme Court allowed an Appeal filed by the Appellants-Ayurveda Lecturers, challenging an order of the H.C. finding them ineligible for absorption. The Appellants were found ineligible on the ground that they did not possess the requirement of 3 yrs. of post-qualification teaching experience on the date they were initially appointed as a teacher in the private Ayurvedic College. The Court held that each of the Appellants was holding the academic qualification while they entered into service, and was holding teaching experience of more than 3 years as on the cut-off date (i.e. the date of absorption). Thus, the justification that the Appellants were not holding the post qualification teaching experience of 3 yrs. on the date when they were initially appointed in the private Ayurvedic College is not in conformity with the Bihar Private Medical (Indian System of Medicine) College (Taking over) Act, 1985 read with the relevant notification. Accordingly, the Court set aside the Order of the H.C., and held that the Appellants (most of whom had attained the age of superannuation) were entitled to pension and other retiral benefits. It was further directed that the Appellant who had not attained the age of superannuation be reinstated.

[Dr. \(Mrs.\) Chanda Rani Akhouri & Ors. v. Dr. M.A. Methusethupathi & Ors.](#)

Date: 20.04.2022
Bench Strength: 2 Judges

[Consumer Law-Medical Negligence:](#)

The Supreme Court dismissed an Appeal filed by the wife of the deceased victim, against the decision of the NCDRC rejecting the Complaint of the Appellant seeking damages for post-operative medical negligence. The Court held that a medical practitioner is not to be held liable simply because things went wrong from mischance or through an error of judgment in choosing a reasonable course of treatment in preference to another. In the practice of medicine, there could be varying approaches of treatment. However, while adopting a course of treatment, the duty cast upon the medical practitioner is that he must ensure that the medical protocol being followed by him is to the best of his skill and with competence at his command. At the given time, a medical practitioner would be liable only where his conduct fell below that of the standards of a reasonably competent practitioner in his field.

<p><i>Hon'ble Mr. Justice Ajay Rastogi</i></p>	<p><u>Maniben Maganbhai Bhariya v. District Development Officer, Dahod & Ors.</u></p> <p>Date: 25.04.2022 Bench Strength: 2 Judges</p>	<p><u>Service Law-Payment of Gratuity to Anganwadi workers and helpers:</u></p> <p>The Supreme Court was considering whether Anganwadi workers and helpers appointed to work in Anganwadi centres set up under the Integrated Child Development Scheme (for short “ICDS”) are entitled to gratuity under the Payment of Gratuity Act, 1972. Justice Rastogi, in his separate judgment, held that when social security legislations are being interpreted, it always has to be interpreted liberally, with a beneficial interpretation, and has to be given the widest possible meaning which the language permits, known as Beneficial Interpretation. When a statute is meant for the benefit of a particular class and if a word in the statute is capable of two meanings, i.e., one which would preserve the benefits and one which would not, then the former is to be adopted. It was held that the frontline women workers (Anganwadi workers and helpers) are the backbone of the ICDS. Justice Rastogi also discussed the various constitutional provisions relating to protection of women and children. He agreed with the conclusion of Justice Oka, who held that the 1972 Act was applicable to Anganwadi Workers and Helpers.</p> <p>NOTE : Justice A.S. Oka has delivered a separate judgment.</p>
 <p>Hon'ble Mr. Justice Dinesh Maheshwari</p>	<p><u>Atbir v. State of NCT of Delhi</u></p> <p>Date: 29.04.2022 Bench Strength: 2 Judges</p>	<p><u>Criminal Law - Grant of Furlough:</u></p> <p>The Supreme Court while allowing an Appeal against the rejection of grant of furlough, held that even if a prisoner has been sentenced to life imprisonment for the remainder of his natural life without the right to seek remission, the right to seek furlough based on good conduct will not be foreclosed.</p> <p>The Court also discussed the distinction between Parole and Furlough and opined that in furlough, the prisoner is deemed to be serving the sentence inasmuch as the period of furlough is not reduced from actual serving period and the conduct is predominantly decisive of entitlement towards furlough. While, for parole, conduct is not a decisive factor and some cause or event predominantly decides the question whether the person is to be admitted to parole or not.</p>

 <p>Hon'ble Mr. Justice Bhushan Ramkrishna Gavai</p>	<p><u>Union of India & Ors. v. Major R. Metri No. 08585N</u></p> <p>Date: 04.04.2022 Bench Strength: 2 Judges</p>	<p><u>Criminal Law-Armed Forces Tribunal:</u></p> <p>The Supreme Court while setting aside the order passed by the Armed Forces Tribunal, convicting the Appellant for the offence punishable u/S. 63 of the Army Act and sentencing him to forfeiture of seniority of rank and of severe reprimand, directed that the Appellant be reinstated forthwith with continuity of service.</p> <p>Observing that the Armed Forces Tribunal has the jurisdiction to interfere with the finding of a Court-Martial, the Supreme Court observed that conviction solely on the basis of extra-judicial confession without corroboration is unjustified, and held that the extrajudicial confession is a weak piece of evidence and unless such a confession is found to be voluntary, trustworthy and reliable, the conviction solely on the basis of the same, without corroboration, would not be justified.</p>
	<p><u>Central Council For Indian Medicine v. Karnataka Ayurveda Medical College & Ors.</u></p> <p>Date: 11.04.2022 Bench Strength: 2 Judges</p>	<p><u>Law relating to Educational Institutions:</u></p> <p>The Supreme Court was considering a case where the respondent-college was refused permission to admit students for the year 2018-2019, and subsequently, granted permission to admit students for 2019-2020.</p> <p>The H.C. held that the subsequent permission would enure in respect of the previous year also. Setting aside the decision of the H.C., the Supreme Court held that 13A and S.22 and 36(1)(j) of the Indian Medical Council Act provides a complete scheme for establishment of medical college, opening a new or higher course of study or training, increasing admission capacity, etc.</p> <p>Further, the Court relied upon the Indian Medicine Central Council (Post-Graduate Ayurveda Education) Regulations, 2016, and held that the finding of the H.C. that the permission granted for a subsequent academic year would also enure to the benefit of the earlier academic year, though the said institution was not fulfilling the criteria of minimum standard, was totally erroneous.</p>

<p><i>Hon'ble Mr. Justice Bhushan Ramkrishna Gavai</i></p>	<p><u>Dental Council of India v. Biyani Shikshan Samiti & Anr.</u></p> <p>Date: 12.04.2022 Bench Strength: 2 Judges</p>	<p><u>Law relating to Educational Institutions:</u></p> <p>The Supreme Court while upholding the Notification amending Regulation 6(2)(h) of the Dental Council of India (Establishment of New Dental Colleges, Opening of New or Higher Course of Studies or Training and Increase of Admission Capacity in Dental Colleges) Regulations, 2006, observed that the right to establish an educational institution can be regulated to ensure the maintenance of proper academic standards, atmosphere and infrastructure and the prevention of maladministration. The High Court had struck down the Notification which amended the Regulation, on the grounds that it is violative of Article 19(1)(g) of the Constitution of India, and beyond the scope of the powers of the Council to make delegated legislation as provided u/S. 10A(7) of the Dentists Act, 1948. The Supreme Court, while reversing the decision of the H.C., held that:(1) The amended Regulation cannot be said to be one which is manifestly arbitrary, so as to permit the Court to interfere with it. On the contrary, the amended Regulation 6(2)(h) was found to have a direct nexus with the object to be achieved, i.e., providing adequate teaching and training facilities to the students; (2) It was not permissible for the Division Bench of the H.C. to enter into an area of experts and hold that the unamended provisions ought to have been preferred over the amended provisions.</p>
	<p><u>All India Judges Association & Ors. Union of India & Ors.</u></p> <p>Date: 19.04.2022 Bench Strength: 3 Judges</p>	<p><u>Service Law-Appointment of District Judges:</u></p> <p>The Supreme Court was considering applications for modification of its earlier Orders dated 21st March 2002 and 20th April 2010, which provided that recruitment to the Higher Judicial Service i.e. the cadre of District Judges will be :</p> <p>(i) 50% by promotion from amongst the Civil Judges (Senior Division) on the basis of principle of merit-cum-seniority and passing a suitability test;</p> <p>(ii) 25% by promotion strictly on the basis of merit through limited competitive examination of Civil Judges (Senior Division) having not less than 5 years' qualifying service; and</p>

<p><i>Hon'ble Mr. Justice Bhushan Ramkrishna Gavai</i></p>		<p>(iii) 25% through direct recruitment from amongst the eligible advocates on the basis of the written and <i>viva voce</i> test conducted by respective High Courts. Keeping in view the peculiar situation prevailing in Delhi that the nature of work to be performed by the Civil Judge (Junior Division) and Civil Judge (Senior Division) is the same, the Supreme Court modified its Orders, and directed that the requirement of Civil Judge (Senior Division) having 5 years' qualifying service be modified to Civil Judges having 7 years qualifying service [(5 years as Civil Judge (Junior Division) and 2 years as Civil Judge (Senior Division), or 10 years qualifying service as Civil Judge (Junior Division)].</p>
	<p>State of Odisha & Ors. Etc.Etc. v. Sulekh Chandra Pradhan Etc.</p> <p>Date: 20.04.2022 Bench Strength: 2 Judges</p>	<p><u>Service Law-Appointment in contravention to law:</u></p> <p>While deciding a challenge to an Order of the H.C. (confirming the Order of the Orissa CAT) setting aside the termination of the respondent-employees, the Supreme Court held that appointments made in contravention to statutory provisions are void <i>ab initio</i>. In this case, on a reading of the provisions of the Odisha Education (Recruitment and Conditions of Service of Teachers and Members of the Staff of Aided Educational Institutions) Rules, 1974, the Court concluded that the appointments of the respondents were made without following the procedure prescribed in the said Rules. Accordingly, the Court set aside the Order of the H.C., and upheld the termination of the employees.</p>
	<p>Smt. Kaithuami [L] through LRs. v. Smt. Ralliani & Ors.</p> <p>Date: 26.04.2022 Bench Strength: 2 Judges</p>	<p><u>Civil Law-Inheritance under Mizo Customary Law:</u></p> <p>The Supreme Court was considering the claim of family members for inheritance of property. The Court relied upon a judgment of Gauhati High Court, Aizawl Bench, speaking through Madan B. Lokur, C.J. (as he then was), in <i>Thansiami v. Lalruatkima and Ors.</i> (2012) 2 Gauhati Law Reports 309, wherein it was held that inheritance depends upon the question as to whether a person supports the deceased in his old age or not. It was held that if a natural heir does not support his parents, he would not be entitled to inheritance. It was held that even if there is a natural heir, a person who supports the person until his death could inherit the properties of that person.</p>

 <p>Hon'ble Mr. Justice Surya Kant</p>	<p><u>Jagjeet Singh & Ors. v. Ashish Mishra @ Monu & Anr.</u></p> <p>Date: 18.04.2022 Bench Strength: 3 Judges</p>	<p><u>Criminal Law-Reversal of Grant of Bail:</u></p> <p>The Supreme Court while setting aside the order of the Allahabad H.C. granting bail to the Accused, who allegedly drove into the crowd of farmers and hit them with an intention to kill, remitted the matter back to the High Court for fresh decision on merits after taking note of relevant considerations for grant of bail, and after affording a right of hearing to the victim/s. The Supreme Court held that the victims have been denied a fair and effective hearing at the time of granting bail, and that the order under challenge does not conform to the relevant considerations.</p>
 <p>Hon'ble Mr. Justice Aniruddha Bose</p>	<p><u>Hyundai Motor India Limited v. Shailendra Bhatnagar</u></p> <p>Date: 20.04.2022 Bench Strength: 2 Judges</p>	<p><u>Consumer Law-Award of Compensation:</u></p> <p>The Supreme Court upheld the concurrent decisions of consumer forums, which had directed the Car Manufacturer/Hyundai Motor India Limited, to compensate the Claimant, due to the reason that the airbags of the Car (Creta) did not deploy during the accident and the Claimant had to suffer multiple injuries. The Court held that the failure to provide an airbag system which would meet the safety standards as perceived by a car-buyer of reasonable prudence should be subject to punitive damages which can have deterrent effect, and that a Consumer is not meant to be an expert in physics calculating the impact of a collision on the theories based on velocity and force.</p>
	<p><u>Shankar Lal v. Hindustan Copper Ltd. & Ors.</u></p> <p>Date: 20.04.2022 Bench Strength: 2 Judges</p>	<p><u>Service Law-Benefit of VRS:</u></p> <p>In this case, an employee approached the Supreme Court against dismissal of his plea before the H.C. challenging an Order of the Respondent-employer fixing his date of birth at an earlier date, thereby reducing his VRS benefits. It was held that the decision of the employer to change the birth date of the employee in the service book, without affording an opportunity of hearing to the employee was violative of the principles of natural justice. Further, it was held that the rule that employees cannot raise a dispute relating to date of birth at the fag end of their service is equally applicable to employers. Accordingly, the Court set aside the Order of the H.C., and directed the respondents to extend the benefit of VRS to the employee from the date of birth as mentioned by him.</p>

	<p><u>Anuj Singh @ Ramanuj Singh @ Seth Singh v. The State of Bihar</u></p> <p>Date: 22.04.2022 Bench Strength: 3 Judges</p>	<p><u>Criminal Law-Contradictions in witness deposition:</u></p> <p>The Supreme Court was deciding an Appeal filed by Accused persons challenging a Judgment of the H.C. modifying their conviction from one u/S.307 I.P.C. to one u/S. 324 I.P.C. and S.27 of the Arms Act. It was held that testimony of a witness in a criminal trial cannot be discarded merely because of minor contradictions or omission. The Court relied upon its Judgment in <i>Narayan Chetanram Chaudhary & Anr. v. State of Maharashtra</i> (2000) 8 SCC 457, wherein it was held that only contradictions in material particulars and not minor contradictions can be a ground to discredit the testimony of the witnesses. Accordingly, the Court dismissed the Appeal.</p>
	<p><u>Imran v. Mr. Mohammed Bhava & Anr.</u></p> <p>Date: 22.04.2022 Bench Strength: 3 Judges</p>	<p><u>Criminal Law-Anticipatory Bail:</u></p> <p>While considering a challenge raised by the Complainant against an Order of the H.C. granting anticipatory bail to the Respondents in a murder case, the Supreme Court held that bail when granted can always be revoked if the relevant material on record, gravity of the offence or its societal impact have not been considered by the lower court. In such instances, where bail is granted in a mechanical manner, the order granting bail is liable to be set aside. Accordingly, the Court set aside the Order of the H.C.</p>
	<p><u>Principal Commissioner of Income Tax (Central) - 2 v. M/s. Mahagun Realtors (P) Ltd.</u></p> <p>Date: 05.04.2022 Bench Strength: 2 Judges</p>	<p><u>Tax Law-Amalgamation:</u></p> <p>The Supreme Court allowed an Appeal challenging the order of the Delhi High Court which affirmed the order of the Income Tax Appellate Tribunal quashing the assessment order against the Assessee / Respondent. The Court held that whether corporate death of amalgamating entity upon amalgamation <i>per se</i> invalidates an assessment order issued under the Income Tax Act, 1961, cannot be determined on a bare application of Section 481 of the Companies Act, 1956 or its equivalent in the 2013 Act, which deals with the dissolution of the said company and the same would depend on the terms of the amalgamation and the facts of each case.</p>

<p><i>Hon'ble Mr. Justice S. Ravindra Bhat</i></p>		<p>The Court also noted that amalgamation is different from winding up, in the sense that though the outer shell of the corporate entity is destroyed, the corporate venture continues. Upon amalgamation, the cause of action does not <i>per se</i> cease. Consequently, the Court held that as the appeal of the revenue against the order of the CIT was not heard on merits, the matter was restored to the file of ITAT, which would proceed to hear the parties on the merits of the appeal as well as the cross objections, on issues, other than the nullity of the assessment order, on merits.</p>
	<p><u>Sukh Dutt Ratra & Anr. v. State Of Himachal Pradesh & Ors.</u></p> <p>Date: 06.04.2022 Bench Strength: 2 Judges</p>	<p><u>Land Acquisition-Due Process to be followed while acquiring:</u></p> <p>While allowing the Appeal filed by the Appellants who were aggrieved by the State's (State of Himachal Pradesh) action of illegally acquiring their lands, the Supreme Court held that forcible dispossession of private property of a person without following due process of law, is violative of both their human right and constitutional right.</p> <p>The Court also held that the State has, in a clandestine and arbitrary manner, actively tried to limit disbursement of compensation, as required by law, only to those for which it was specifically prodded by the Courts, rather than to all those who are entitled. This arbitrary action, which is also violative of the appellants' prevailing Article 31 right (at the time of cause of action), undoubtedly warranted consideration, and intervention by the High Court, under its Article 226 jurisdiction.</p> <p>Accordingly, the Court directed the State to treat the subject lands as a deemed acquisition, and appropriately disburse compensation to the appellants in the same terms as the order of the reference court and to ensure that the appropriate Land Acquisition Collector computes the compensation, and disburses it to the appellants, within 4 months. The Court held that the Appellants would be entitled to consequential benefits of solatium, and interest on all sums payable under law w.e.f date of issuance of notification under Section 4 of the Act, till the date of the impugned judgment.</p>

<p><i>Hon'ble Mr. Justice S. Ravindra Bhat</i></p>	<p>Haris Marine Products v. Export Credit Guarantee Corporation (ECGC) Limited</p> <p>Date: 25.04.2022 Bench Strength: 3 Judges</p>	<p><u>Consumer Law-Interpretation of Insurance Policy:</u></p> <p>The Supreme Court, while deciding the interpretation of an insurance contract held that an insurance contract is to be construed harmoniously by reading the contract in its entirety. If after that, no clarity emerges, then the term must be interpreted in favour of the insured, i.e., against the drafter of the policy.</p> <p>It was held that the rule of <i>contra proferentem</i> protects the insured from the vagaries of an unfavourable interpretation of an ambiguous term to which it did not agree.</p>
	<p>Akhilesh Prasad v. Jharkhand Public Service Commission & Ors.</p> <p>Date: 26.04.2022 Bench Strength: 3 Judges</p>	<p><u>Service Law-Reservation benefit after State Re-organization:</u></p> <p>While considering the claim of an employee seeking reservation after re-organization of Bihar, Justice Bhat authored a concurring judgment holding that the choice which an individual, who belonged to the erstwhile unified state, but who has to agree, for whatever reason, to settle in the bifurcated state, in a place or region where he originally did not reside, is involuntary.</p> <p>It is precisely to cater to such situations, that a provision was made expressly protecting benefits which such individuals had hitherto been enjoying in the erstwhile unified states, such as Section 73 of the Bihar Re-organization Act, 2000.</p> <p>Further it was held that there is an obligation on the part of Parliament, to provide clarity about the kind of protection, regarding the status of such individuals forced to choose one among the newly reorganized states, and ensure that they are not worse off as a result of reorganization.</p> <p>NOTE: Justice Lalit authored the majority judgment (for himself and Justice Pamidighantam Sri Narasimha), whereas Justice S. Ravindra Bhat authored a separate concurring view.</p>

 <p>Hon'ble Mr. Justice V. Ramasubramanian</p>	<p><u>M/s. Bharat Coking Coal Ltd. v. Mahendra Pal Bhatia & Ors.</u></p> <p>Date: 01.04.2022 Bench Strength: 2 Judges</p>	<p><u>Civil Law-Eviction under the Public Premises (Eviction) Act:</u></p> <p>The Supreme Court while allowing an Appeal and reversing the order passed by the Jharkhand High Court, which had set aside eviction orders passed under the Coal Mines (Nationalisation) Act, 1973, held that if any land fell within the expression 'mine' under the Section 2(h) of the Coal Mines (Nationalisation) Act, 1973, it would stand transferred to and vest in the Central Government under Section 3(1), irrespective of who owns the said land.</p>
	<p><u>Mrs. Umadevi Nambiar v. Thamarasseri Roman Catholic Diocese Rep By Its Procurator Devssia's Son Rev. Father Joseph Kappil</u></p> <p>Date: 01.04.2022 Bench Strength: 2 Judges</p>	<p><u>Civil Law-Partition Suit:</u></p> <p>The Supreme Court while reversing the judgment of the High Court which had set aside and the Judgment and preliminary decree passed by the trial Court in a Suit for Partition held that :</p> <p>i) The possession of an agent under a deed of Power of Attorney is also the possession of the Principal, and that any unauthorized sale made by the agent will not tantamount to the Principal parting with possession; ii) It is not always necessary for a plaintiff in a suit for partition to seek the cancellation of the alienations; iii)The agent would have the power to sell only if the document expressly authorised him/her to execute a sale deed; to present it for registration; and to admit execution before the Registering Authority.</p>
	<p><u>Chairman-cum-managing Director Fertilizer Corporation Of India Ltd. & Anr. v. Rajesh Chandra Shrivastava & Ors.</u></p> <p>Date: 07.04.2022 Bench Strength: 2 Judges</p>	<p><u>Service Law-Payment of Wages:</u></p> <p>The Supreme Court held that an <i>ad hoc</i> payment made to the workers pursuant to the interim orders passed by the Court in a previous round of litigation could not form part of “wages” within the meaning of the expression u/S. 2(s) of the Payment of Gratuity Act, 1972, for the purpose of calculating gratuity. The Court held this while setting aside the orders of the H.C., the Controlling Authority and the Appellate Authority under the Act, which held that the <i>ad hoc</i> payment made pursuant to the interim orders will form part of the wages, and also held that that the benefits of an interim order would automatically go when the party who secured it, failed in the final stage.</p>

<p>Hon'ble Justice Ramasubramanian Mr. V.</p>	<p><u>Asset Reconstruction Co. (India) Ltd. v. Chief Controlling Revenue Authority</u></p> <p>Date: 26.04.2022 Bench Strength: 2 Judges</p>	<p><u>Civil Law-Payment of stamp duty under the Bombay Stamp Act, 1958:</u></p> <p>The Supreme Court was considering a challenge to a Judgment of a Full Bench of the Gujarat High Court which held that stamp duty has to be independently paid on a Power of Attorney executed along with a deed assigning debt, even if stamp duty has been paid on the assignment deed.</p> <p>While setting aside the Judgment, the Supreme Court held that the High Court overlooked the fact that there was no independent instrument of Power of Attorney, and that in any case, the power of sale of a secured asset flowed out of the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, and not out of an independent instrument of Power of Attorney.</p> <p>It was held that once a single instrument has been charged under a correct charging provision of the Statute, namely Article 20(a) of Schedule I of the Gujarat Stamp Act, 1958, the Revenue cannot split the instrument into two. Accordingly, the Court set aside the Order of the High Court.</p>
 <p>Hon'ble Justice Hrishikesh Roy Mr.</p>	<p><u>Augustan Textile Colours Limited (Now Augustan Textile Colours Pvt Limited) v. Director of Industries & Anr.</u></p> <p>Date: 08.04.2022 Bench Strength: 2 Judges</p>	<p><u>Tax Law-Exemption:</u></p> <p>The Supreme Court was considering the issue whether the benefit of tax exemption in respect of works contract granted in the process of revival of an industry under the Sick Industrial Companies Act, 1985 based on a communication can be withdrawn by a subsequent government order.</p> <p>In his judgment, Justice Hrishikesh Roy held that the tax exemption was not only <i>ultra vires</i> S.10(1) of Kerala General Sales Tax Act, 1963, but also falls short by principle of reasonableness, fairness, and non-arbitrariness.</p> <p>The withdrawal of the exemption was to remedy this mischief. Accordingly, the Court upheld the decision of the H.C.</p> <p>NOTE : Justice K.M. Joseph has delivered a separate concurring Judgment.</p>

<p>Justice Hrishikesh Roy</p>	<p><u>Rathish Babu Unnikrishnan v. The State (Govt. of NCT) & Anr.</u></p> <p>Date: 26.04.2022 Bench Strength: 2 Judges</p>	<p><u>Criminal Law-Negotiable Instruments Act:</u></p> <p>The Supreme Court was considering a challenge raised by an Accused against an Order of the H.C. dismissing his quashing petition in a case u/S. 138 of the N.I. Act. The Court held that in a situation where the accused moves Court for quashing, even before trial has commenced, the Court's approach should be careful enough not to prematurely extinguish the case by disregarding the legal presumption which supports the complaint. It was held that where there is a legal presumption, it would not be judicious for the quashing Court to carry out a detailed enquiry on the facts alleged, without first permitting the Trial Court to evaluate the evidence of the parties. The Court should not take upon itself the burden of separating the grain from the chaff where facts are contested. It was held that the Court should be slow to grant the relief of quashing at a pre-trial stage, when the factual controversy is in the realm of possibility, particularly because of the legal presumption.</p>
 <p>Hon'ble Mr. Justice Abhay. S. Oka</p>	<p><u>Maniben Maganbhai Bhariya v. District Development Officer, Dahod & Ors.</u></p> <p>Date: 25.04.2022 Bench Strength: 2 Judges</p>	<p><u>Service Law-Payment of Gratuity to Anganwadi workers and helpers:</u></p> <p>The Supreme Court was considering whether Anganwadi workers and helpers appointed to work in Anganwadi centres set up under the Integrated Child Development Scheme are entitled to gratuity under the Payment of Gratuity Act, 1972. Justice A.S. Oka in his separate judgment discussed the various duties of Anganwadi Workers. On a reading of the various provisions of the National Food Security Act, 2013, it was concluded that Anganwadi centres have become an extended arm of the Government. It was held that Anganwadi Centres were established to give effect to the obligations of the State defined u/A. 47 of the CoI. The posts of Anganwadi Workers and Anganwadi Helpers are statutory posts. It was concluded that Anganwadi Centres are "establishments" u/S. 1(3)(b) of the 1972 Act. Accordingly, it was concluded that the Payment of Gratuity Act was applicable to Anganwadi workers and helpers.</p> <p>NOTE : Justice Ajay Rastogi has delivered a separate concurring judgment.</p>

 <p>Hon'ble Mr. Justice Vikram Nath</p>	<p><u>Kalyani (Dead) through LRs & Ors. v. The Sulthan Bathery Municipality & Ors.</u></p> <p>Date: 26.04.2022 Bench Strength: 2 Judges</p>	<p><u>Civil Law-Voluntary surrender of land:</u></p> <p>The Supreme Court, while considering the claim of landowners for compensation of land acquired for construction / widening of Sulthan Batheri Bypass Road, held that the burden to establish voluntary surrender of land would be on the Panchayat / Municipality. In this case, it was the stand of the land owners that the Municipality had assured compensation to them, and had acquired their land; whereas, it was the case of the Municipality that the landowners had voluntarily surrendered their land.</p> <p>The Court held that construction / widening of road would be a public purpose, but there being no justification for not paying compensation, the action of the Respondents is arbitrary, unreasonable and clearly violative of Article 300-A of the Constitution.</p>
 <p>Hon'ble Ms. Justice Hima Kohli</p>	<p><u>Devender Singh & Ors. v. The State of Uttarakhand</u></p> <p>Date: 21.04.2022 Bench Strength: 3 Judges</p>	<p><u>Criminal Law-Conviction in dowry death:</u></p> <p>While deciding an appeal against a Judgment of the H.C. convicting the Appellants u/S. 498A, 304B and 120B I.P.C., the Supreme Court held that S. 304B IPC r.w. S.113B of the Evidence Act, makes it clear that once the prosecution has succeeded in demonstrating that a woman was subjected to cruelty or harassment for or in connection with any demand for dowry soon before her death, a presumption shall be drawn against the said persons that they have caused dowry death as contemplated u/S. 304B IPC.</p> <p>The said presumption can be rebutted by the accused by demonstrating that all the ingredients of S/304B IPC have not been satisfied. On consideration of the evidence, the Court concluded that the ingredients of S.304-B were satisfied against the husband. However, the Court acquitted the mother-in-law and brother-in-law on the ground that there was no specific role with regard to the demand of dowry, and nor any specific instance of cruelty and harassment was ascribed to them, except general assertions.</p>

<p>Hon'ble Ms. Justice Hima Kohli</p>	<p><u>Ramjhan Gani Palani v. National Investigating Agency & Anr.</u></p> <p>Date: 27.04.2022 Bench Strength: 3 Judges</p>	<p><u>Criminal Law-Rejection of Bail:</u></p> <p>The Supreme Court upheld the rejection of Bail to the Petitioner in a case of recovery of 236.622 Kgs of Heroin in 211 packets. On consideration of the material on record, the Court concluded that <i>prima facie</i> there was sufficient material on record to deny the discretionary relief of bail to the petitioner. It was further held that the petitioner would be entitled to justify his presence in the fishing boat, at the scene of crime which is sought to be described as a sheer coincidence during the trial.</p>
 <p>Hon'ble Mrs. Justice B. V. Nagarathna</p>	<p><u>M/s. Frost International Limited v. M/s. Milan Developers And Builders (P) Limited & Anr.</u></p> <p>Date: 01.04.2022 Bench Strength: 2 Judges</p>	<p><u>Civil Law-Rejection of Plaintiff:</u></p> <p>The Supreme Court, while deciding an appeal against an order of the H.C. directing re-consideration of an application for rejection of plaintiff held that, where the reliefs sought in the plaintiff are barred by law, the plaintiff is liable to be rejected. In this case, the Court held that the reliefs sought in the plaintiff were barred by law inasmuch as the reliefs frustrate the defendants from initiating a prosecution against the plaintiff, or seeking any other remedy available in law. Accordingly, the Court set aside the Order of the H.C., and rejected the plaintiff. It was clarified that the rejection of the plaintiff would not come in the way of the plaintiff filing a suit seeking appropriate reliefs in accordance with law.</p>
 <p>Hon'ble Mr. Justice M. M. Sundresh</p>	<p><u>State of Uttarakhand v. Sudhir Budakoti & Ors.</u></p> <p>Date: 07.04.2022 Bench Strength: 2 Judges</p>	<p><u>Service Law-Parity of Pay Scales:</u></p> <p>The Supreme Court was considering a challenge to a Judgment of the H.C. directing a State University to apply the pay scale of employees of Central Universities to the Respondent, who was a Registrar of a State University. The H.C. passed such an order on the basis of two communications issued by the Department of Higher Education, the Ministry of Human Resources Development of the Government of India. Relying upon its Judgment in <i>Kalyani Mathivanan v. K.V. Jeyaraj</i> (2015) 6 SCC 363, the Supreme Court held that the State is not bound by the directions issued by the Central Government, which would, at worst, be mandatory to Central Universities and Central Government Colleges receiving funds. Any such decision would be directory to State Government Colleges and Universities, being in the nature of a mere recommendation.</p>

<p><i>Hon'ble Justice M. M. Sundresh</i> <i>Mr. M. M.</i></p>	<p><u>Abid-Ul-Islam v. Inder Sain Dua</u></p> <p>Date: 07.04.2022 Bench Strength: 2 Judges</p>	<p><u>Civil Law-Eviction of Tenants under the Delhi Rent Control Act:</u></p> <p>The Supreme Court, while deciding a challenge to a judgment of the H.C. allowing a revision petition filed by a tenant, and granting leave to defend u/S.25B of the Delhi Rent Control Act, held that mere assertion <i>per se</i> would not suffice to avail the leave to defend u/S.25B (5).</p> <p>It was held that S. 14(1)(e) carves out an exception to the regular mode of eviction. In a case where a landlord makes an application seeking possession of the tenanted premises for his <i>bona fide</i> requirement, the Rent Controller may dispense with the protection prescribed under the Act, and grant an order of eviction. S.14(1)(e) creates a presumption subject to the satisfaction of the Rent Controller <i>qua bona fide</i> need in favour of the landlord, which is rebuttable with some material of substance to the extent of raising a triable issue. Accordingly, the Court held that in this case, the H.C. had erroneously allowed the Revision Petition, and accordingly, the judgment of the H.C. was set aside.</p>
	<p><u>Jafarudheen & Ors. v. State of Kerala</u></p> <p>Date: 22.04.2022 Bench Strength: 2 Judges</p>	<p><u>Criminal Law-Recovery u/S. 27 of the Evidence Act:</u></p> <p>The Supreme Court, while hearing a batch of appeals against conviction of one group of accused and acquittal of another group, held that the Appellate Court has to be relatively slow in reversing the order of the Trial Court rendering acquittal. Mere delay in registering the F.I.R., by itself, cannot be a sole factor in rejecting the prosecution's case. Further, it was held that any recovery u/S.27 of the Evidence Act, will have to satisfy the Court's conscience. One cannot lose sight of the fact that the prosecution may, at times, take advantage of the custody of the accused, by other means. The Court will have to be conscious of the witness' credibility and other evidence produced when dealing with a recovery u/S.27 of the Evidence Act.</p> <p>Accordingly, upon considering the merits of the case of each accused, the Court upheld the conviction of some accused, and acquitted other accused persons.</p>

 <p>Hon'ble Ms. Justice Bela M. Trivedi</p>	<p><u>Som Dutt & Ors. v. The State of Himachal Pradesh</u></p> <p>Date: 04.04.2022 Bench Strength: 2 Judges</p>	<p><u>Criminal Law-Release of Convict under Probation of Offenders Act:</u></p> <p>The Supreme Court was considering a challenge to concurrent conviction and sentence of 3 months' imprisonment awarded to the Petitioners-Accused under Section 379 read with 34 of the Indian Penal Code.</p> <p>While upholding the conviction, the Court directed the release of the Accused persons under the Probation of Offenders Act, having regard to the sentence imposed, and that the Accused persons did not have any criminal antecedents.</p>
	<p><u>Mohd. Firoz v. State of Madhya Pradesh</u></p> <p>Date: 19.04.2022 Bench Strength: 3 Judges</p>	<p><u>Criminal Law-Commutation of death penalty:</u></p> <p>The Supreme Court was considering a challenge against the Judgment of the High Court of Judicature, Madhya Pradesh at Jabalpur, awarding death penalty to an Accused person for the rape and murder of a 4 year old girl.</p> <p>The Court held that once the theory of "last seen together" was established, the accused was expected to offer some explanation as to under which circumstances he had parted with the company of the victim.</p> <p>While considering the contention of fair trial, the Court held that the court conducting the trial / appeal is not only obliged to protect the rights of the accused but also the rights of the victim, and the interest of the society at large.</p> <p>Upon consideration of the evidence, the Court concluded that the prosecution proved the case beyond a reasonable doubt, and upheld the conviction of the Accused.</p> <p>While commuting the death penalty awarded to the convict, the Court balanced the scales of retributive justice and restorative justice. Accordingly, the Court imposed the sentence of imprisonment for a period of 20 years instead of imprisonment for the remainder of the natural life of the Accused.</p>



**Hon'ble Mr. Justice
Pamidighantam Sri
Narasimha**

[Experion Developers Pvt. Ltd. v. Sushma Ashok Shiroor](#)

Date: 07.04.2022
Bench Strength: 3 Judges

[Consumer Protection Law-Power to grant refund:](#)

The Supreme Court, while deciding the interplay between the Consumer Protection Act and RERA reiterated its judgments in *Imperia Structures Ltd v. Anil Patni* (2020) 10 SCC 783 and *IREO Grace Realtech (P) Ltd. v. Abhishek Khanna & Ors.* (2021) 3 SCC 241, and concluded that the Consumer Protection Act and the RERA Act neither exclude nor contradict each other. They are concurrent remedies operating independently and without primacy.

It was held that when Statutes provide more than one judicial fora for effectuating a right, or to enforce a duty-obligation, it is a feature of remedial choices offered by the State for an effective access to justice. Therefore, while interpreting statutes provisioning plurality of remedies, it is necessary for Courts to harmonise the provisions in a constructive manner. It was further held that the power to direct refund of the amount and to compensate a consumer for the deficiency in not delivering the apartment as per the terms of Agreement is within the jurisdiction of the Consumer Courts u/S.14 of the Consumer Protection Act.