

REPORTABLE JUDGMENTS OF THE SUPREME COURT OF INDIA
IN JUNE 2022

REPORTABLE JUDGMENTS AUTHORED BY:	CASE DETAILS	AREA OF LAW / RATIO / HELD
 <p>Hon'ble Mr. Justice A. M. Khanwilkar</p>	<p><u>Zakia Ahsan Jafri v. State Of Gujarat & Anr.</u></p> <p>Date: 24.06.2022 Bench Strength: 3 Judges</p>	<p><u>Criminal Law-Challenge to the SIT's Closure Report in Gujarat Riots Case:</u></p> <p>The Supreme Court dismissed the petition filed by Zakia Ahsan Jafri challenging the closure report filed by SIT discarding allegations of a larger conspiracy in the Gujarat riots, and held that –</p> <p>(i) No fault can be found with the approach of the SIT in submitting the final report which is backed by firm logic, expositing an analytical mind, and dealing with all aspects objectively for discarding the allegations regarding a larger criminal conspiracy for causing and precipitating mass violence across the State against the minority community during the relevant period;</p> <p>(ii) The materials collected during the investigation do not give rise to strong or grave suspicion regarding hatching of a larger criminal conspiracy at the highest level for causing mass violence across the State against the minority community;</p> <p>(iii) The SIT had formed its opinion after considering all the materials collated during the investigation. The question of further investigation would have arisen only on the availability of new material / information in connection with the allegation of larger conspiracy at the highest level, which is not forthcoming in this case.</p>
 <p>Hon'ble Mr. Justice S. Abdul Nazeer</p>	<p><u>Kattukandi Edathil Krishnan & Anr. v. Kattukandi Edathil Valsan & Ors.</u></p> <p>Date: 13.06.2022 Bench Strength: 2 Judges</p>	<p><u>Civil Law-Long Co-habitation of man and woman:</u></p> <p>The Supreme Court, while deciding a challenge arising out of a preliminary partition decree, held that if a man and a woman live together for long years as husband and wife, there would be a presumption in favour of wedlock. Such a presumption could be drawn u/S. 114 of the Evidence Act.</p>

<p>Hon'ble Mr. Justice S. Abdul Nazeer</p>		<p>It was further held that once a preliminary decree is passed by the Trial Court, the court should proceed with the case for drawing up the final decree <i>suo motu</i>.</p> <p>After passing of the preliminary decree, the Trial Court has to list the matter for taking steps under Order XX Rule 18 of the CPC. The Courts should not adjourn the matter <i>sine die</i>. There is no need to file separate final decree proceedings.</p>
 <p>Hon'ble Mr. Justice Mukeshkumar Rasikbhai Shah</p>	<p><u>Swaminathan Kunchu Acharya v. State of Gujarat & Ors.</u></p> <p>Date: 09.06.2022 Bench Strength: 2 Judges</p>	<p><u>Criminal Law-Habeas Corpus in custody matters:</u></p> <p>In this case, the H.C. while deciding a Habeas Corpus Petition filed by the paternal grandfather of a minor child, directed that the custody of the child be handed to the maternal aunt of the minor.</p> <p>The Supreme Court held that there cannot be any presumption that the maternal aunt being unmarried having an independent income; younger than the paternal grandparents and having a bigger family would take better care of the child than the paternal grandparents.</p> <p>While granting custody of the child to the paternal grandfather, the Supreme Court held that in our society, still, paternal grandparents would always take better care of their grandson. One should not doubt the capacity and / or ability of the paternal grandparents to take care of their grandson.</p> <p>The Court further held that the High Court had not observed anything against the paternal grandparents that they had not taken proper care of the minor grandson while his interim custody was with them, and / or that they acted detrimental to the interest of the minor.</p>

<p>Hon'ble Mr. Justice Mukesh Kumar Rasikbhai Shah</p>	<p><u>Dr. Astha Goel and Ors. v. The Medical Counselling Committee & Ors.</u></p> <p>Date: 10.06.2022 Bench Strength: 2 Judges</p>	<p><u>Educational Law-Conduct of Special Stray Round of Counselling for NEET-PG:</u></p> <p>The Supreme Court was considering writ petitions seeking conduct of a special stray round of counselling for vacant seats which are available after the conduct of stray vacancy round of All India Quota for NEET-PG. It was held that the decision of the Union Government and the Medical Counselling Committee not to have a Special Stray Round of Counselling is in the interest of Medical Education and Public Health. There cannot be any compromise with the merits and / or quality of Medical Education, which may ultimately affect Public Health. The process of admission, and that too, in medical education, cannot be endless. It must end at a particular point of time. The time schedule has to be adhered to, otherwise, ultimately, it may affect the medical education and the public health. Accordingly, the Court dismissed the writ petitions.</p>
 <p>Hon'ble Mr. Justice Dinesh Maheshwari</p>	<p><u>Ms. P. v. State of Uttarakhand & Anr.</u></p> <p>Date: 16.06.2022 Bench Strength: 2 Judges</p>	<p><u>Criminal Law-Section 220 Cr.P.C.:</u></p> <p>The Supreme Court was deciding an appeal filed by the victim against an Order of the H.C. refusing to interfere in the Order of discharge of R.2-Accused for the offence u/S. 376 I.P.C. on the ground of lack of territorial jurisdiction. In this case, it was alleged that the offence of rape occurred in Delhi, whereas the phone calls hurling abuses and extending threats were received by the victim at District Chamoli (S. 504 and 506 I.P.C.). The Court relied upon its Judgments in <i>Mohan Baitha and Ors. v. State of Bihar and Anr.</i>, (2001) 4 SCC 350, and <i>Anju Chaudhary v. State of Uttar Pradesh and Anr.</i>, (2013) 6 SCC 384, wherein it was held that core elements like proximity of time, unity or proximity of place, continuity of action and community of purpose or design, are relevant considerations. When these factors are applied to common sense and ordinary use of language, the vexed question of 'same transaction' could be reasonably determined. On an analysis of the peculiar facts in this case, the Court concluded that the offence of rape was beyond the jurisdiction of the Courts in District Chamoli, and the Accused was rightly discharged of the offence u/S. 376 I.P.C.</p>

Hon'ble Mr. Justice Dinesh Maheshwari	<u>Bharat Bhushan Gupta v. Pratap Narain Verma & Anr.</u> Date: 16.06.2022 Bench Strength: 2 Judges	<u>Civil Law-Valuation of Suit and Court Fees:</u> The Supreme Court held that it is the nature of relief claimed in the plaint which is decisive of the question of suit valuation. As a necessary corollary, the market value does not become decisive of suit valuation merely because an immovable property is the subject-matter of litigation. The market value of the immovable property involved in the litigation might have its relevance depending on the nature of relief claimed but, ultimately, the valuation of any particular suit has to be decided primarily with reference to the relief/s claimed.
	<u>Manoj Pratap Singh v. The State of Rajasthan</u> Date: 24.06.2022 Bench Strength: 3 Judges	<u>Criminal Law-Death Penalty:</u> In this case, the Supreme Court upheld the conviction of the Appellant / Convict u/S. 363, 365, 376(2)(f), 302 of I.P.C. and S.6 of POCSO, and confirmed the sentence of death penalty awarded to him. The Convict / Appellant had been accused of kidnapping a physically and mentally challenged 7 ½ year-old girl in front of her parents from their fruit and vegetable vending cart. Thereafter, he took her to a secluded place, committed rape upon her, and killed her by causing injuries on her head. The Court, while confirming the death penalty, considered and held as under – (i) The crime had been of extreme depravity, which shocks the conscience of the Court. (ii) Mitigating circumstances include the fact that he has a family with a wife and minor daughter, and an aged father. The crime was committed when he was only 28 years of age. The Court, however, held that these mitigating factors are pitted against several other factors pertaining to the Appellant himself. (iii) The Appellant was found involved in at least 4 cases with offences ranging from S.3 of Prevention of Damage to Public Property Act, 1984, S.379 I.P.C. and even S.307 I.P.C. (iv) The present crime itself was carried out with the aid of a stolen motorcycle.

<p>Hon'ble Mr. Justice Dinesh Maheshwari</p>		<p>(iv) The conduct of the Appellant post-conviction: He not only earned 7 days' punishment in jail for quarrelling with a co-inmate, but he has been convicted of the offence of murder of another jail inmate.</p> <p>(v) There was no possibility that he would not relapse again in this crime if given any indulgence.</p>
<div data-bbox="147 701 435 1010" data-label="Image"> </div> <p>Hon'ble Mr. Justice Bhushan Ramkrishna Gavai</p>	<p><u>The State Of Andhra Pradesh v. Raghu Ramakrishna Raju Kanumuru (M.P.)</u></p> <p>Date: 01.06.2022 Bench Strength: 2 Judges</p> <p><u>Vallal Rck v. M/s. Siva Industries and Holdings Limited & Ors.</u></p> <p>Date: 03.06.2022 Bench Strength: 2 Judges</p>	<p><u>Constitutional Law-Tribunals are subordinate to the H.C.:</u></p> <p>The Supreme Court was deciding a case where the issue before the NGT was also before the H.C. in another proceeding. The Court relied upon its Judgment in <i>L. Chandra Kumar v. Union of India and Others</i> (1995) 1 SCC 400, and concluded that insofar as Tribunals are concerned, they would be subordinate to the High Court so far as the territorial jurisdiction of the High Court is concerned. The Court held that it was not appropriate on the part of the NGT to have continued with the proceedings before it, specifically, when it was pointed out that the H.C. was also in seisin of the matter and had passed an interim order. The conflicting orders passed by the NGT and the H.C. would lead to an anomalous situation, where the authorities would be faced with a difficulty as to which order they are required to follow. There can be no manner of doubt that in such a situation, it is the orders passed by the constitutional courts, which would prevail over the orders passed by the statutory tribunals.</p> <p><u>Insolvency & Bankruptcy Code- Commercial Wisdom of CoC:</u></p> <p>The Supreme Court was deciding a challenge to an Order of NCLAT rejecting an Application filed by the RP u/S. 12A of the IBC for withdrawal of the application filed under Section 7 of the IBC in view of the Settlement Plan submitted by the appellant (promoter of the Corporate Debtor). While setting aside the Order of the NCLAT, the Supreme Court held that when 90% and more of the creditors, in their wisdom after due deliberations, find that it will be in the interest of all the stake-holders to permit settlement and withdraw CIRP, the NCLT or the NCLAT cannot sit in an appeal over the commercial wisdom of CoC.</p>

Hon'ble Mr. Justice Bhushan Ramkrishna Gavai		The interference would be warranted only when the NCLT, or the NCLAT finds the decision of the CoC to be wholly capricious, arbitrary, irrational, and <i>de hors</i> the provisions of the statute or the Rules.
	<u>Ardhendu Kumar Das v. The State of Odisha and Ors.</u> Date: 03.06.2022 Bench Strength: 2 Judges	<u>Constitutional Law-Construction near Shree Jagannath Temple:</u> In this case, the Supreme Court was deciding pleas pertaining to construction work within the prohibited area of the Shree Jagannath Temple. The Court analysed the Ancient Monuments and Archaeological Sites and Remains Act, 1958, and various Reports on record, and concluded that the construction in the present case, is being carried out for the purpose of providing basic and essential amenities like toilets for men and women, cloak rooms, electricity rooms etc. These are basic facilities which are necessary for the convenience of the devotees at large. The legislature has deliberately excluded 4 categories from the definition of “construction”. The purpose behind it appears to be that the repairs and renovation of the buildings, which are existing and the constructions which are necessary for providing basic facilities like drainage, toilets, water supply and distribution of electricity should be kept out of the rigour of requirement of statutory permissions. Accordingly, the Court dismissed the petitions with costs of Rs.1 Lac.
	<u>Mahendra Singh and Ors. v. State of M.P.</u> Date: 03.06.2022 Bench Strength: 2 Judges	<u>Criminal Law-Appeal against conviction:</u> The Supreme Court was deciding appeals filed by Accused persons against their conviction (as confirmed by the H.C.) for offences u/S.302 r.w. 149 and S.148 I.P.C. While reversing the conviction of the Accused persons, the Court discussed the law relating to the type of witnesses. It was held that witnesses are of 3 types, <i>viz.</i> , (a) wholly reliable; (b) wholly unreliable; and (c) neither wholly reliable, nor wholly unreliable.

<p>Hon'ble Mr. Justice Bhushan Ramkrishna Gavai</p>		<p>On examining the evidence of the sole eye witness in this case, the Court concluded that he fell within the category of “wholly unreliable” and therefore the conviction of the Accused persons could not be sustained on the basis of his evidence.</p>
	<p><u>Manoj Parihar & Ors. v. State of Jammu & Kashmir & Ors.</u></p> <p>Date: 27.06.2022 Bench Strength: 2 Judges</p>	<p><u>Service Law-Inter Se Seniority and Roster Points System:</u></p> <p>The Supreme Court was deciding the issue of whether the <i>inter- se</i> seniority of Munsiffs appointed through direct recruitment on the recommendations of the State Public Service Commission should be determined on the basis of the roster points, or in terms of the order of their <i>inter-se</i> merit at the time of their selection.</p>
<p>Hon'ble Mr. Justice Surya Kant</p>		<p>The Court concluded that the roster system is only for the purpose of ensuring that the quantum of reservation is reflected in the recruitment process. It has nothing to do with the <i>inter se</i> seniority amongst those recruited.</p> <p>It was held that the roster points do not determine the seniority of the appointees who gain simultaneous appointments; that is to say, those who are appointed collectively on the same date, or are deemed to be appointed on the same date, irrespective when they joined their posts.</p> <p>Further, the Court relied upon its Judgment in <i>P.V. George v. State of Kerala</i>, (2007) 3 SCC 557, and concluded that the law declared by a court will have retrospective effect, if not otherwise stated to be so specifically.</p>

 <p>Hon'ble Mr. Justice Aniruddha Bose</p>	<p><u>T.N. Godavarman Thirumulpad v. Union of India and Ors.</u></p> <p>Date: 03.06.2022 Bench Strength: 3 Judges</p>	<p><u>Environmental Law-Mining within national parks and sanctuaries :</u></p> <p>The Supreme Court was dealing with the issues of mining activities in and around a wildlife sanctuary in the State of Rajasthan, known as “Jamua Ramgarh”; and prescribing Eco Sensitive Zones (ESZ) surrounding the wildlife sanctuaries and national parks.</p> <p>The Court directed that each protected forest, that is national park or wildlife sanctuary must have an Eco Sensitive Zones of minimum one kilometre measured from the demarcated boundary of such protected forest; for Jamua Ramgarh wildlife sanctuary, it shall be 500 metres so far as subsisting activities are concerned. Mining within the national parks and wildlife sanctuaries shall not be permitted.</p> <p>Further, it was directed that the CEC shall quantify the compensation to be recovered from each miner indulging in mining activities within the Jamua Ramgarh sanctuary in violation of any statutory provision or order of the Supreme Court.</p>
 <p>Hon'ble Mr. Justice Vikram Nath</p>	<p><u>Somakka (Dead) By Lrs. v. K.P.Basavaraj(Dead) By Lrs.</u></p> <p>Date: 13.06.2022 Bench Strength: 2 Judges</p>	<p><u>Civil Law-Order XLI Rule 31 CPC:</u></p> <p>While deciding an appeal arising out of a suit for partition, the Supreme Court held that Order XLI Rule 31 of the CPC provides for the contents of the judgment of the First Appellate Court. According to it, the judgment of the Appellate Court shall be in writing and would include the points for determination, the decision thereon, the reasons for the decision, and where the decree is reversed or varied, the relief to which the appellant is entitled.</p> <p>It was concluded that in this case, the High Court committed a serious error in neither forming the points for determination, nor considering the evidence on record, in particular which had been relied upon by the Trial Court. The impugned judgment of the High Court was thus set aside.</p>

<p>Hon'ble Justice Nath</p> <p>Mr. Vikram</p>	<p><u>Krishna Rai (Dead) Thr. LRs. & Ors. v. Banaras Hindu University Through Registrar & Ors.</u></p> <p>Date: 16.06.2022 Bench Strength: 2 Judges</p>	<p><u>Service Law-Estoppel and statutory service rules:</u></p> <p>The Supreme Court was deciding the issue whether the principle of estoppel and acquiescence will prevail over statutory service rules prescribing the procedure for promotion of Class-IV employees to Class-III working in the Banaras Hindu University, Varanasi, a Central University. It was held that the principle of estoppel cannot override the law. The Court relied upon its judgment in <i>Tata Chemicals Ltd. v. Commissioner of Customs (preventive), Jamnagar</i>, (2015) 11 SCC 628, wherein it was held that there can be no estoppel against law. If the law requires something to be done in a particular manner, then it must be done in that manner, and if it is not done in that manner, then it would have no existence in the eye of the law.</p>
 <p>Hon'ble Justice Kohli</p> <p>Ms. Hima</p>	<p><u>Uttam v. State of Maharashtra</u></p> <p>Date: 02.06.2022 Bench Strength: 2 Judges</p>	<p><u>Criminal Law-Dying Declaration:</u></p> <p>The Supreme Court was deciding an appeal against the conviction of the Petitioner u/S. 302 I.P.C. While discussing the law relating to dying declarations, it was held that where the Court finds that there exist more than one dying declarations, each one of them must be examined with care and caution, and only after satisfying itself as to which of the dying declarations appear to be free from suspicious circumstances, and has been made voluntarily, should it be accepted. It is not necessary that in every case, a dying declaration ought to be corroborated with material evidence, ocular or otherwise. It is more a rule of prudence that courts seek validation of the dying declaration from attending facts and circumstances and other evidence brought on record.</p> <p>In the facts of this case, the Court concluded that all four dying declarations, two in writing and two oral, were based on the statements given by the deceased at different times on the very same day, when she had suffered 93% burn injuries, and there were serious doubt about her being mentally and physically fit to give her statement. Accordingly, the Court acquitted the Accused.</p>

<p>Hon'ble Ms. Justice Hima Kohli</p>	<p><u>EX. CT. Mahadev v. The Director General, Border Security Force & Ors.</u></p> <p>Date: 14.06.2022 Bench Strength: 2 Judges</p>	<p><u>Criminal Law-Plea of self-defence:</u></p> <p>The Supreme Court was considering an appeal filed by an Accused against an Order convicting him u/S. 46 of the Border Security Force Act, 1968 (i.e. S.302 I.P.C.) In this case, the Accused had raised the plea of private defence. It was held that the right of private defence is necessarily a defensive right which is available only when the circumstances so justify. The circumstances are those that have been elaborated in the I.P.C. Such a right would be available to the accused when he or his property is faced with a danger and there is little scope of the State machinery coming to his aid. At the same time, the courts must keep in mind that the extent of the violence used by the accused for defending himself or his property should be in proportion to the injury apprehended. The underlying factor should be that such an act of private defence should have been done in good faith and without malice.</p> <p>The Court concluded that the right of private self-defence would be available to the Accused keeping in mind preponderance of probabilities which lean in his favour. In a fact situation where he was suddenly confronted by a group of intruders, who had come menacingly close to him, were armed with weapons and ready to launch an assault on him, he was left with no other option but to save his life by firing at them from his rifle and in the process two of the shots had pierced through the deceased, causing his death. Accordingly, the Court modified the impugned judgment to the extent that the Accused was held guilty for the offence of culpable homicide, not amounting to murder as contemplated under Exception 2 to Section 300 I.P.C. Considering that the Accused had undergone 11 years in custody, the Court directed that he be released.</p>
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