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PATRON-IN-CHIEF



HON'BLE MR. JUSTICE RAJESH BINDAL
Chief Justice, Allahabad High Court

SUPERVISORY COMMITTEE OF JTRI



**Hon'ble
Mr. Justice Devendra Kumar Upadhyaya**
Judge, Allahabad High Court, Lucknow Bench
& Chairman Supervisory Committee JTRI



**Hon'ble
Mr. Justice Ajay Bhanot**
Judge, Allahabad High Court



**Hon'ble
Mr. Justice Piyush Agrawal**
Judge, Allahabad High Court



**Hon'ble
Mr. Justice Jaspreet Singh**
Judge, Allahabad High Court,
Lucknow Bench

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TRAINING ACTIVITIES IN THE INSTITUTE

I. Expeditious Disposal of MACT Cases with Special Reference to Motor Vehicles (Amendment) Rules, 2019 and Central Motor Vehicles (Amendment) Rules, 2022 at Gautam Buddha Nagar on 02.09.2022 (Friday)

In the compliance of directions of the Hon'ble High Court the Institute organized a Workshop on "Effective Implementation of the new statutory scheme prescribed by the Central Motor Vehicles Act 1988, as amended by Motor Vehicles (Amendment) Act, 2019 along with Central Motor Vehicles (Fifth Amendment) Rules, 2022", on 02.09.2022 in Gautam Buddha Nagar. In this workshop the Judicial Officers, Police Officers and representatives of Transport & Insurance Department participated.

II. One Day Conference on “Addressing the Deficiency in Investigation and Criminal Trials with Special Reference to Exhibits Recovery and Documentary Evidence” at JTRI UP, Lucknow on 04.09.2022 (Sunday)

In the compliance of directions of the Hon'ble High Court the Institute organized one Day Regional Conference on "Addressing the Deficiency in Investigation and Criminal Trials with Special Reference to Exhibits Recovery and Documentary Evidence" for the officers of District Courts of Hardoi, Gonda and Barabanki on 04.09.2022 at the Institute. The objective of this Conference is to make aware the Judges of District Judiciary on emerging trends of administration of justice and other related issues.

III. Zonal Conference in association with UNICEF on the “Effective Implementation of Juvenile Justice Act, 2015 and POCSO Act, 2012” on 04.09.2022

A day-long zonal conference covering 14 districts was held to discuss about the ways to strengthen the effective implementation of the Juvenile Justice (Care and Protection of Children) Act – 2015 and the Protection of Children from Sexual Offence Act, 2012 was organized by the Judicial Training and Research Institute at the JTRI campus on Sunday in association with UNICEF, Lucknow, under the aegis of the Juvenile Justice Committee of Hon'ble Allahabad High Court. This was the first of the six consultations planned jointly by JTRI and UNICEF across six locations in Uttar Pradesh. The initiative is based on the directions from the Hon'ble Chief Justice, Allahabad High Court to sensitize all key stakeholders for effective coordination and convergence in ensuring timely justice to children. The remaining zonal consultations would now be held in Allahabad, Gorakhpur, Bareilly, Gautam Buddha Nagar and Kanpur in the upcoming weeks.

“The aim of holding the zonal conferences is to sensitize the officers and functionaries on different nuances and the dynamics surrounding issues of protection of children from harm, abuse, and any form of exploitation-- be it the case of survivors of sexual abuse or case of a juvenile in conflict with law,” said Dr Amit Mehrotra, Programme Manager, UNICEF Uttar Pradesh.

Hon'ble Mr. Justice Rajesh Bindal, Chief Justice, Allahabad High Court, who delivered the keynote address, said, “This conference was overdue, and it was important to discuss the issues related to Juvenile Justice Act and POCSO Act at a platform where all the concerned

stakeholders meet, therefore the zonal conferences have been organized. He mentioned that it is important to see that what kind of environment is being provided to the child as it affects the child's psychology and actions in many ways. As children are vulnerable, a balance should be kept for exposing them to television and internet. It is very important also to sensitize children as they should know about the consequences of the offences which might affect their life. He spoke about the cases related to sexual abuse of children and their safe custody. Counseling of children as well as their parents is also a very important aspect while dealing with such cases of sexual abuse."

Hon'ble Mr. Justice Ramesh Sinha, Senior Judge, Allahabad High Court at Lucknow said that children are a very important part of our society. His Lordship said, expeditious justice delivery system should be administered for them and the laws provided are to safeguard their interests and provide them a suitable environment.



Hon'ble Mr. Justice Rajesh Bindal, Chief Justice, Allahabad High Court addressing Participants in the Zonal Conference virtually



Hon'ble Dr. Justice Kaushal Jayendra Thaker, Judge, Allahabad High Court Sensitizing virtually in the Zonal Conference



Hon'ble Mr. Justice Ramesh Sinha, Senior Judge, Allahabad High Court at Lucknow, Hon'ble Mr. Justice Devendra Kumar Upadhyaya, Judge, Allahabad High Court at Lucknow, Hon'ble Mr. Justice Abdul Moin, Judge, Allahabad High Court at Lucknow, Smt. Anamika Singh, Secretary, Department of Women & Child Development, Govt. of U.P. and Dr. Amit Mehrotra, Programme Manager, UNICEF sharing Dias in the Inaugural Function



Hon'ble Mr. Justice Jaspreet Singh, Hon'ble Mr. Justice Rajnish Kumar, Hon'ble Mr. Justice Ajay Kumar Srivastav and Hon'ble Mr. Justice Om Prakash Shukla, Judge, Allahabad High Court at Lucknow attending the zonal conference

Hon'ble Mr. Justice D.K. Upadhyaya, the Chairman, Supervisory Committee of JTRI said that for matters related to juveniles, "I still feel that there are many aspects of Juvenile Justice Act, 2015 and POCSO Act, 2012 related to its implementation which need to be

looked at closely. As judges when we come across any child and we are facing any problem in dealing with the case, the key idea should be to take decision in the best interest of the child.”

Hon’ble Dr. Justice Kaushal Jayandra Thaker, Judge and Chairperson, Juvenile Justice Committee, Allahabad High Court spoke about the concept of victimology and about the conditions of the juveniles in the Child Care Institutions. He said, “we need to focus more on the plight of the victims of child sexual abuse and award appropriate compensation under the Victim Compensation Scheme or Rani Laxmi Bai scheme as the case may be.”

Hon’ble Mr. Justice Abdul Moin, Judge, Allahabad High Court at Lucknow and Member, Juvenile Justice Committee, Allahabad High Court said, “It is overwhelming to see the commitment of the participants who have come from their respective districts for contributing to the conference. As a practice to learn, evolve strategies and support in developing a conducive environment for children, under the guidance of the Hon’ble Chief Justice, the Juvenile Justice Committee of the High Court decided to organize zonal conferences on effective implementation of the JJ Act & strengthening support system for POCSO child survivors.”



Hon’ble Mr. Justice Abdul Moin, Judge, Allahabad High Court at Lucknow sensitizing participants



Smt. Anamika Singh, Secretary, Department of Women & Child Development, Govt. of U.P. addressing participants



Dr. Amit Mehrotra, Programme Manager, UNICEF delivering his talk in the conference

Smt. Anamika Singh, Secretary, Department of Women and Child Development, Government of Uttar Pradesh said that, “around 40% of the population of India consists of children who need our attention. She mentioned that under the guidance of the Hon’ble High Court Juvenile Justice Committee, the Department of Women and Child Development took various steps to take care of the children during the COVID pandemic.”

The consultation consisted several technical sessions and group work which included detailed discussions on the importance of Sections 14 and 15 of the Juvenile Justice Act 2015. Reporting of Child Sexual Abuse has always been an issue due to several reasons including societal pressure and other systematic challenges. The experts also discussed the dynamics of Child Sexual Abuse. A session also focused on the convergence between stakeholders for the implementation of POCSO Act 2012. A handbook with summary of the POCSO Act, dynamics of Child Sexual Abuse, various stages of a case and the role of support persons during investigation, medical intervention and care, protection and rehabilitation was released during the consultation.

The Protection of Children from Sexual Offence Act, 2012 (POCSO Act) which has come into force with effect from 14th November, 2012 along with the Rules framed there under is a comprehensive law to provide for the protection of children from the offences of sexual assault, sexual harassment, and pornography, while safeguarding the interest of the child at every stage of judicial process by incorporating child-friendly mechanisms for reporting, recording evidence, investigation and speedy trial of offences through special courts.

IV. 05 Days Management Development Programme/ Capacity Building Programme for Judicial Officers of U.P. at IIPA, New Delhi

With the objective, to equip the judicial officers, with the contemporary techniques of court and personal management, JTRI, under the directions of the Hon'ble State Court Management Systems Committee, Allahabad High Court, in partnership with the Indian Institute of Public Administration (IIPA), New Delhi resumed the Management Development Programme (MDP) training for all the judicial officers at IIPA, New Delhi, for the month September, 2022 are as follows:

Sl. No.	Programmes	Duration	Target Group	No. of Participants
1.	MDP-07 at IIPA, New Delhi	05.09.2022 to 09.09.2022	Judicial Officers of each Cadre of District Judiciary	40
2.	MDP-07 at IIPA, New Delhi	12.09.2022 to 16.09.2022	Judicial Officers of each Cadre of District Judiciary	40
3.	MDP-07 at IIPA, New Delhi	19.09.2022 to 23.09.2022	Judicial Officers of each Cadre of District Judiciary	40

V. One Day Online Special Training Programme for Presiding Officers of Commercial Courts of U.P. on “Speedy Disposal of Arbitration Cases” on 07.09.2022

As per the directions of the Hon'ble Court, the Institute organized one day online Special Training Programme for Presiding Officers of Commercial Courts of U.P. on "Speedy Disposal of Arbitration Cases" on 07.09.2022. The objective of this programme is to identify the barrier of Speedy Disposal of Arbitration Cases and find out the ways and means for early disposal of these matters. A virtual link created by the Institute is also attached herewith for joining the workshop.

VI. Two Days Conference on “Justice Delivery System: Challenges and Solutions”

Two Days Conference on “Justice Delivery System: Challenges and Solutions” was organized by the institute on 10th and 11th September, 2022 under the directions of Hon'ble Allahabad High Court in which a huge number of judicial officers including District Judges from across the State of Uttar Pradesh and large number of Police Officers and Prosecution officers are participating.

This Two-day conference was organized to sensitize the participating Judges, prosecution officers, police officers and other stake holders in the matters involving criminal and civil matters pertaining to fair trial rights of accused, participation of victims in trial process, statutory requirements of investigation and removing discrepancies in investigation process. On civil side, issues relating to preventing abuse of process of courts and serving interest of justice, scope and limitation of discretionary powers of civil courts, execution of interlocutory orders, enlargement of time etc. will be covered.

The two days' conference started with the objective of strengthening the justice delivery system at the district level and as such all the stakeholders of the criminal justice system were brought on one platform for discussions and deliberations with a view to identify the persisting challenges and to find out solutions for speedy and smooth delivery of justice to litigants.

The inaugural session of the conference was scheduled on 10th September, 2022 from 10.00 a.m. to 11.00 a.m. in the Auditorium of JTRI. The conference was inaugurated by **Hon'ble Mr. Justice Krishna Murari, Judge, Supreme Court of India and the Chief Guest of the Inaugural Session** in the august presence of **Hon'ble Mr. Justice Vikram Nath, Judge, Supreme Court of India, Hon'ble Mr. Justice Rajesh Bindal, the Chief Justice, Allahabad High Court, Hon'ble Mr. Justice Ramesh Sinha, Senior Judge, Allahabad High Court at Lucknow and Hon'ble Mr. Justice Devendra Kumar Upadhyaya, Judge, Allahabad High Court at Lucknow & Chairman, Supervisory Committee, JTRI.**



Sri P.K. Srivastava - II, Principal Secretary & L.R. presenting live plant to Hon'ble Mr. Justice Krishna Murari, Judge, Supreme Court of India and Chief Guest of the Inaugural Session



Sri Ashish Garg, Registrar General, Allahabad High Court presenting live plant to Hon'ble Mr. Justice Vikram Nath, Judge, Supreme Court of India Guest of Honour of the Inaugural Session



Sri Sanjay Singh – I, Member Secretary, UPSLSA presenting live plant to Hon'ble Mr. Justice Ramesh Sinha, Senior Judge, Allahabad High Court at Lucknow



Sri Vinod Singh Rawat, Director, JTRI presenting live plant to Hon'ble Mr. Justice Rajesh Bindal, Chief Justice, Allahabad High Court and Guest of Honour of the Inaugural Session



Sri Vivek, Senior Registrar, High Court presenting live plant to Hon'ble Mr. Justice Devendra Kumar Upadhyaya, Judge, Allahabad High Court at Lucknow

On the occasion, a large number of Hon'ble Judges, sitting and former were present in the conference.



Hon'ble Mr. Justice Attau Rahman Masoodi, Hon'ble Mrs. Justice Sangeeta Chandra and Hon'ble Mrs. Justice Saroj Yadav in the Inaugural Function



Hon'ble Mr. Justice Abdul Moin and Hon'ble Mr. Justice Saurabh Lavania in the Inaugural Function



Hon'ble Mr. Justice Rajeev Singh, Hon'ble Mr. Justice Samit Gopal and Hon'ble Mr. Justice Rajnish Kumar in the Inaugural Function



Hon'ble Mr. Justice Piyush Agrawal, Hon'ble Mr. Justice Jaspreet Singh and Hon'ble Mr. Justice Rajesh Singh Chauhan in the Inaugural Function

While inaugurating the conference **Hon'ble Mr. Justice Krishna Murari, Judge, Supreme Court of India** said that providing justice is not only the duty of judges but it is also the duty of other components of justice delivery system. It is not only necessary for the other stakeholders to assist the courts in dispensation of justice but should also to ensure that justice is provided quickly. He also referred to the Alternative Dispute Resolution Mechanism (ADR) to speed up the process of justice delivery system. He said that we need to inspire and educate people to maintain their trust in the ADR as well as in the judicial system.



Hon'ble Mr. Justice Krishna Murari, Judge, Supreme Court of India addressing the participants in the Inaugural Function



Hon'ble Mr. Justice Krishna Murari, Hon'ble Mr. Justice Vikram Nath, Hon'ble Mr. Justice Rajesh Bindal, Hon'ble Mr. Justice Ramesh Sinha & Hon'ble Mr. Justice Devendra Kumar Upadhyaya Sharing Dais in the Inaugural Function

On this occasion, the **Guest of Honour Hon'ble Mr. Justice Vikram Nath, Judge, Supreme Court of India** said that he is very happy to know that all the stakeholders are participating in this conference as now the time has come to seriously think about the pending cases. It is an urgent need that all the stakeholders should discharge their duties with utmost sincerity and sensitivity. He also said that the common man still reposes trust in the justice delivery system. He also suggested that Alternative Mechanism should be used through Lok Adalat, Mediation etc. to settle disputes outside the courts to lessen the burden of courts and dispense quick justice.



Hon'ble Mr. Justice Vikram Nath, Judge, Supreme Court of India sensitizing the participants



Hon'ble Mr. Justice Rajesh Bindal, The Chief Justice, Allahabad High Court delivering his talk

Hon'ble Mr. Justice Rajesh Bindal, the Chief Justice, Allahabad High Court and the Guest of Honour of inaugural session, while addressing the participants, said that to maintain people's trust in the justice delivery system, we need to think and work seriously about disposal of the pending cases quickly. We need to enquire the reasons for delay in the disposal of cases so that we may deliver justice on time. He referred to the huge number of disposal of cases in Lok Adalat in the State of Uttar Pradesh and while inspiring the participants he said that we need to set examples for rest of the States by disposing as many cases as is possible. We may have limited human and technical resources and we may also have less number of judges but we cannot tell these reasons to the litigants as getting quick and inexpensive justice is the right of litigants. In this context, he referred to the Action Plan of the High Court for quick disposal of cases.

In the inaugural function **Hon'ble Mr. Justice Ramesh Sinha, Senior Judge, Allahabad High Court at Lucknow** welcomed the Chief Guest **Hon'ble Mr. Justice Krishna Murari, Judge, Supreme Court of India**, Guests of Honour **Hon'ble Mr. Justice Vikram Nath, Judge, Supreme Court of India** and **Hon'ble Mr. Justice Rajesh Bindal, the Chief Justice, Allahabad High Court** and the other Hon'ble Dignitaries and delegates.



Hon'ble Mr. Justice Ramesh Sinha, Senior Judge, Allahabad High Court at Lucknow delivering welcome address in the Inaugural Session



Hon'ble Mr. Justice Devendra Kumar Upadhyaya, Judge, Allahabad High Court at Lucknow tendering vote of thanks

In the end of inaugural session, **Hon'ble Mr. Justice Devendra Kumar Upadhyaya, Judge, Allahabad High Court at Lucknow & Chairman, Supervisory Committee, JTRI** tendered vote of thanks to Hon'ble Chief Guest, Guests of Honour, other dignitaries, delegates and participants.

The visionary guidance of **Hon'ble Mr. Justice Krishna Murari, Hon'ble Mr. Justice Vikram Nath, Judges, Supreme Court of India and Hon'ble Mr. Justice Rajesh Bindal, Chief Justice, Allahabad High Court** gave a pragmatic and solution finding direction to this conference on '**Justice Delivery System.**'

The technical sessions on criminal and civil matters comprehensively covered the target areas in an interesting manner where the participants contributed immensely to make this conference meaningful and effective.

On 10th September 2022, the first technical session of the conference, presentations were made before a panel consisting of **Hon'ble Mr. Justice Ramesh Sinha, Senior Judge, Allahabad High Court at Lucknow, Hon'ble Mr. Justice Rajesh Singh Chauhan, Judge, Allahabad High Court, Hon'ble Mrs. Justice Saroj Yadav, Judge, Allahabad High Court at Lucknow and Hon'ble Mr. Justice Dharnidhar Jha, Former Judge, Allahabad High Court** and the presenters of this session were **Sri Avnish Saxena, District Judge, Gautama Buddha Nagar, Dr. Rajendra Pal Singh, IPS, Director General (Training), Directorate of Police Training, Uttar Pradesh, Lucknow, and Sri Ashutosh Pandey, IPS, Additional Director General (Prosecution), Uttar Pradesh, Lucknow.**



Hon'ble Mr. Justice Rajesh Bindal, Hon'ble Mr. Justice Devendra Kumar Upadhyaya and Hon'ble Mr. Justice Samit Gopal(from right to left) attending the technical session



Hon'ble Mr. Justice Ramesh Sinha, Hon'ble Mr. Justice Rajesh Singh Chauhan, Hon'ble Mrs. Justice Saroj Yadav and Hon'ble Mr. Justice Dharmidhar Jha sharing Dais in the technical session



Sri Ashutosh Pandey, Additional Director General (Prosecution), Uttar Pradesh, Lucknow, Sri Avnish Saxena, District Judge, Gautama Buddha Nagar and Dr. Rajendra Pal Singh, Director General (Training), Directorate of Police Training, Uttar Pradesh, Lucknow (from left to right) sharing their views in the technical session

In the second technical session of the conference presentations were made before a panel consisting of **Hon'ble Mr. Justice Manoj Misra**, Judge, Allahabad High Court, **Hon'ble Mr. Justice Samit Gopal**, Judge, Allahabad High Court and **Hon'ble Mrs. Justice Renu Agarwal**, Judge, Allahabad High Court at Lucknow and the presenters of this session were **Sri Abdul Shahid**, District Judge, Rae Bareli, **Prof. (Dr.) Dharmendra Kumar Nigam**, In-charge Legal Section, Director General (Medical Education), Uttar Pradesh, Lucknow, **Dr. Arun Sharma**, Deputy Director, Forensic Science Laboratory, Uttar Pradesh, Lucknow and **Sri Aishwarya Pratap Singh**, A.C.J.M. (Railway), Aligarh.



Hon'ble Mr. Justice Ramesh Sinha, Hon'ble Mrs. Justice Saroj Yadav attending the technical session



Hon'ble Mr. Justice Manoj Misra, Hon'ble Mr. Justice Samit Gopal and Hon'ble Mrs. Justice Renu Agarwal sharing Dias in the technical session



Sri Abdul Shahid, District Judge, Rae Bareli, Prof. (Dr.) Dharmendra Kumar Nigam, In-charge Legal Section, Director General (Medical Education), Uttar Pradesh, Lucknow, Dr. Arun Sharma, Deputy Director, Forensic Science Laboratory, Uttar Pradesh, Lucknow and Sri Aishwarya Pratap Singh, A.C.J.M. (Railway), Aligarh presenting in the technical session

On 11th September 2022, in the third technical session of the conference presentations were made before a panel consisting of **Hon'ble Mr. Justice M.C. Tripathi**, Judge, Allahabad High Court, **Hon'ble Mr. Justice Saumitra Dayal Singh**, Judge, Allahabad High Court, **Hon'ble Mr. Justice Ajit Kumar**, Judge, Allahabad High Court and the presenters of this session were **Sri Sanjay Shanker Pandey**, District Judge, Lucknow and **Sri Swapna Anand**, Civil Judge (Senior Division), Ghazipur.



Hon'ble Mr. Justice Ramesh Sinha, Hon'ble Mr. Justice Devendra Kumar Upadhyaya, Hon'ble Mrs. Justice Sangeeta Chandra and Hon'ble Mrs. Justice Saroj Yadav attending the technical session



Hon'ble Mr. Justice M.C. Tripathi, Hon'ble Mr. Justice Saumitra Dayal Singh and Hon'ble Mr. Justice Ajit Kumar sharing Dias in the technical session



Sri Sanjay Shanker Pandey, District Judge, Lucknow and Sri Swapna Anand, Civil Judge (Senior Division), Ghazipur presenting in the technical session

In the last technical session of the conference presentation was made before a panel consisting of **Hon'ble Mr. Justice D.K. Upadhyaya** Judge, Allahabad High Court at Lucknow, **Hon'ble Mrs. Justice Sangeeta Chandra**, Judge, Allahabad High Court, **Hon'ble Mr. Justice Jaspreet Singh**, Judge, Allahabad High Court at Lucknow, **Sri Jaideep Narain Mathur**, Senior Advocate, Allahabad High Court at Lucknow and the presenters of this session was **Sri Rajeshwar Shukla**, Principal Judge, Family Court, Fatehpur.



Hon'ble Mr. Justice D.K. Upadhyaya, Hon'ble Mrs. Justice Sangeeta Chandra and Hon'ble Mr. Justice Jaspreet Singh sharing Dias in the technical session



Sri Rajeshwar Shukla, Principal Judge, Family Court, Fatehpur and Sri Jaideep Narain Mathur, Senior Advocate, Allahabad High Court at Lucknow presenting in the technical session

In the end the programme concluded with a valedictory session which was chaired by a panel consisting of **Hon'ble Mr. Justice Ramesh Sinha**, Senior Judge, Allahabad High Court at Lucknow, **Hon'ble Mr. Justice D.K. Upadhyaya**, Judge, Allahabad High Court at Lucknow and **Hon'ble Mrs. Justice Sangeeta Chandra**, Judge, Allahabad High Court addressed the participants and appealed them to be more sensitive while working on court from tomorrow as the purpose of the conference would be served only if it is reflected in their attitude and working from the next day onwards.



Hon'ble Mr. Justice Ramesh Sinha, Hon'ble Mr. Justice D.K. Upadhyaya and Hon'ble Mrs. Justice Sangeeta Chandra sharing Dais in the Valedictory Function



Hon'ble Mr. Justice Ajit Kumar, Hon'ble Mr. Justice Jaspreet Singh, Hon'ble Mr. Justice Samit Gopal and Hon'ble Mrs. Justice Saroj Yadav attending the Valedictory Function



Sri Vinod Singh Rawat, Director, JTRI tendering vote of thanks to Hon'ble Dignitaries



Dr. Humayun Rasheed Khan, Additional Director (Research), JTRI Compering the proceedings in the Technical Session

VII. 05 days Refresher Training Programmes comprising of 3 days of training on Civil and Criminal Matters clubbed with 2 days training on CIS, e-Court Project, Cyber Law, Digital Evidence and other related Matters for Addl. District Judge

Two refresher training programmes for Additional District Judges were organized from 12.09.2022 to 16.09.2022 and 26.09.2022 to 30.09.2022 which included most of the legal and practical aspects. In addition to these legal aspects, presentation and discussions were also made on ensuring compliance and achieving the targets mentioned in the Action Plan of the Hon'ble High Court for disposal of old cases pending in different courts of Uttar Pradesh. In this programme areas such as law of arbitration including commercial disputes, civil & criminal appeal, Prevention of Corruption Act, SC/ST Act, Crime scene evaluation, execution matters, financial management of district courts, anticipatory bail, sentencing and victim compensation, judgment writing, gangster act, ADR, Disciplinary proceedings, 'Cyber Crimes and their Investigation' and 'Digital Evidence; Acquisition, Preservation and Presentation.'

VIII. "Sensitization of District Court Judges on Gender Justice and Differently Abled Victims/ Survivors of Sexual Abuse"

On 18.09.2022 (Sunday), a One Day Regional Conference on Sensitization of the District Judges on Gender Justice and Differently Abled Survivors/Victims of Sexual Abuse was convened by the Judicial Training and Research Institute Lucknow Uttar Pradesh under the directions of Hon'ble the Chief Justice Rajesh Bindal at JP Sabhagar, Dr. Bhimrao Ambedkar University Agra.

The Chief Guest Hon'ble Mr. Justice Rajesh Bindal, Chief Justice High Court of Judicature at Allahabad inaugurated the conference in the august presence of Hon'ble Mr Justice D.K. Upadhyaya and Hon'ble Mr. Justice Suneet Kumar. Hon'ble Mr Justice Rajesh Bindal in his inaugural address said that India doesn't have a lack of laws but the lacuna is in implementation of these laws. And for this purpose it is necessary that attitudes and outlook is changed. Hon'ble the Chief Justice spoke of the various judgements of the Hon'ble Courts on the issues related to gender justice like the Vishakha case, Nirbhaya case, and indicated that the time has now come for the judicial apparatus to change its attitude and psychology.



Hon'ble Mr. Justice Rajesh Bindal, Chief Justice, Allahabad High Court addressing the participants in the one day conference



Hon'ble Mr. Justice Rajesh Bindal, Chief Justice, Allahabad High Court, Hon'ble Mr. Justice D.K. Upadhyaya, Judge, Allahabad High Court at Lucknow and Hon'ble Mr. Justice Suneet Kumar, Judge, Allahabad High Court sharing Dias in the Conference

The conference also saw the esteemed presence of Hon'ble Mr. Justice Vivek Chaudhary, Hon'ble Mr. Justice Ajay Bhanot, Hon'ble Mr. Justice Jaspreet Singh, Hon'ble Mr. Justice Mohd. Faiz Alam Khan, Hon'ble Mr. Justice Narendra Kumar Johari and Hon'ble Mrs. Justice Saroj Yadav were also present and their insight on the topic.



Hon'ble Mr. Justice Jaspreet Singh Judge Allahabad High Court at Lucknow welcoming the chief guest and guest of honour of the inaugural function



Hon'ble Mr. Justice Ajay Bhanot, Judge Allahabad High Court and Hon'ble Mrs. Justice Saroj Yadav, Judge Allahabad High Court at Lucknow sharing Dias in the technical session



A Memento is being presented to Hon'ble Mr. Justice Mohd. Faiz Alam Khan, Judge Allahabad High Court at Lucknow



Participating officers in the One day conference

Amongst the experts were Dr. Sona Dixit and Dr. Piyush Jain who spoke on judicial stereotyping and issues related to medico legal evidence in such crimes. Dr. Vishal Sinha and Dr. Gyanendra Kumar spoke on issues concerning differently abled witnesses.

Among the audience were the judicial officers of district Agra, Aligarh, Etah, Firozabad, Hathras, Mainpuri and Mathura, along with officers from police and district administration.

The program was successful under the supervision of the Judicial Training and Research Institute Lucknow, District Judge Agra Sri Vivek Sangal and Nodal Officer Sri Mohammad Rashid.

IX. Zonal Conference on Effective Implementation of the Juvenile Justice Act, 2015 and POCSO Act, 2012 organized by JTRI, UP, in association with UNICEF Lucknow, India at Gorakhpur

A day-long consultation for strengthening the support system for child victims of cases under the Protection of Children from Sexual Offence Act, 2012 (POCSO Act) was organized by UNICEF and Judicial Training and Research Institute (JTRI) at the Auditorium of Circuit House Annexe, Gorakhpur on Sunday.

This was the second of the six consultations planned jointly by UNICEF and JTRI across six locations in Uttar Pradesh. The zonal consultation has been held in Lucknow and would now be held in Allahabad, Bareilly, Gautam Buddha Nagar and Kanpur in the upcoming weeks.

Mr. Tej Prajap Tiwari, District and Sessions Judge Gorakhpur welcomed all the participants and expressed his gratitude for the Hon'ble Mr. Justice K.J.Thaker, Chairman, Juvenile Justice Committee, who has been always keen in working for the issues related to child welfare and child protection. He also expressed his gratitude for the Hon'ble Mr. Justice Siddharth Varma, Administrative Judge Gorakhpur and Hon'ble Mrs. Justice Manju Rani Chauhan, Member of the Juvenile Justice Committee for their innovative thoughts, insights and landmark judgments. He briefly spoke about the objectives of the conference which aim to develop an understanding regarding the reasons of delay in disposal of cases and procedures which are adopted for the victims of sexual abuse. He mentioned about the constitutional provisions related to welfare and protection of children and emphasized that it should be the aim of the stakeholders to help children to achieve their rights. While concluding his speech, he wished for. Successful program and said that in due course of working for children we should always keep in our mind that each human being has a child within too.

Dr Amit Mehrotra, Programme Manager, UNICEF Uttar Pradesh said, “The aim of the consultations is to sensitize the officers and functionaries on different nuances and the dynamics surrounding issues of protection of children from harm, abuse, and any form of exploitation-- be it the case of survivors of sexual abuse or case of a juvenile in conflict with law”. In the context of child sexual abuse, he said that the issue is still considered a taboo in our society. The victim's family chooses to be silent for fear of social stigma. For those cases which do come forward, the real question is, could such cases be prevented. He said, “Often child sexual abuse is done by someone who has close access to the child and in many cases the culprit is a family member. Our system needs to develop so as to address this”. He expressed his gratitude for the Hon'ble Juvenile Justice Committee, under whose guidance zonal conference on JJ Act and POCSO are being organized with a decentralized approach. He mentioned about the completion of ten years of POCSO Act 2012 from the date of its enactment on occasion of which it is the time to review the work done, exchange good practices, identify the gaps and find a way forward to fill the gaps with the child centric approach. He spoke briefly about the commitment of UNICEF for children of the nation as well as worldwide where support is provided from neonatal stage of a child to adolescence to protect their rights and provide them necessary care and protection.

Hon'ble Mr. Justice Siddhartha Varma, Judge, High Court of Judicature at Allahabad and Administrative Judge, Gorakhpur who was the Guest of Honour for the consultation started his remarks with a saying that “we cannot always build a future for a child but we can always build a child for the future”. He impressed upon the need to prepare our children as global citizens. He spoke at length on the Juvenile Justice (Care and Protection of Children) Act, 2015 and Protection of Children from Sexual Offences Act, 2012.



Hon'ble Mr. Justice Siddhartha Varma, Judge Allahabad High Court, Sri Tej Pratap Tiwari, District and Sessions Judge, Gorakhpur and Dr. Amit Mehrotra, Programme Manager, UNICEF sharing Dias in the Inaugural Function



Hon'ble Mr. Justice Siddhartha Varma, Judge Allahabad High Court sensitizing participants in the conference



Participating Officers in the zonal conference



Dr. Humayun Rasheed Khan, Additional Director (Research), JTRI sharing Dias in the technical session

He said, “Everywhere mature adults are treated as moral beings who make choices. Children, on the other hand, are regarded as a force of nature and not as independent moral agents. They are restrained, supervised, trained and prepared to assume that status till they assume the state of maturity. Juvenile justice is a site of conflict between these two principles. There is no well defined passage from the status of being an incompetent, supervised child to an autonomous and morally responsible adult. Instead, there is an ambiguous state of adolescence. It is often uncertain whether to treat the young as children requiring help and guidance or to treat them as morally responsible agents who deserve punishment. In most jurisdictions there are special procedures for juvenile who have determinant status between childhood and mature adulthood. In India, Juvenile Justice (Care and Protection of Children) Act, 2015 is one such legislation.” On child sexual abuse, he said, “When a child goes through sexual abuse, there is need of reconstruction of the child’s life on financial, physical, emotional and physical level”. He further said, “It is difficult to decide whether a person is to be considered a child and let off or be considered as an adult who stands trial. This transition period in which a child becomes an adult needs to be understood.”

In the context of children in conflict with law, he said, “the cases of children are to be looked at from the heart and not just from the mind” and asked the Judges and judicial Officers to handle cases of children keeping in mind about their best interest and act in the spirit of the act which is reformatory and not retributive.

He also emphasized on the children of difficult circumstance, abandoned, affected with drug abuse who also need attention from the society. He also spoke about the POCSO Act which came into force as a gender neutral law for protecting children from sexual abuses, of which victim compensation is also a very important aspect. Before ending his address, Hon. Justice Sidharth Verma said, “Education is the most powerful weapon to change the world. We have to educate ourselves in such a manner that justice is not asked for but comes to you. In this work, the role of our judicial officer, policemen and NGOs is very important.”

Hon’ble Dr. Justice K. J. Thaker, Chairman Juvenile Justice Committee Allahabad High Court said in his spoke about the conditions of shelter homes in the state. He requested the children welfare committee and juvenile justice boards for visiting them, Hon’ble Judge emphasized that social reform is one aspect which needs to be considered while taking decisions for the child and the stakeholders are imbued with the duty of helping them for reformation he requested the juvenile justice boards to decide bail application at the earliest related to the children who are in conflict with law. He mentioned that the committee is discussing the matter related to children who are abandoned and their parents or guardian are not ready to accept them in their families the committee will soon come up with some suggestions for bringing exceptional changes. He appreciated Hon’ble Mrs Justice Manju Rani Chauhan, Member of the committee for visiting the shelter homes frequently and giving suggestions from time to time. While concluding his remarks Hon’ble Judge emphasized and requested all the stakeholders to work upon decongestion of observation homes, children homes and remand homes of the State.

Mr. Lallu Singh, District and Session Judge, Balrampur expressed thanks to Hon’ble the Chief Justice under whose guidance the conference has been organized and Hon’ble the Chairman for his insights. He also proposed thanks to Hon’ble Administrative Judge and Member of the Committee for guiding and motivating the participants. While addressing the role of JTRI in facilitating the program, he also thanked UNICEF for its support and contribution.

Various sessions and group works were done during the consultation which included a detailed discussion on the importance of Sections 14 and 15 of the Juvenile Justice Act 2015. Reporting of Child Sexual Abuse has always been an issue due to several reasons including societal pressure and other systematic challenges. The experts also discussed the dynamics of Child Sexual Abuse during the consultation and contemplated on the practices that cause delays before the Juvenile Justice Boards.

A Hindi translation of the ‘Handbook For Support Persons, 2021’ developed by ENFOLD Trust with summary of the POCSO Act, dynamics of Child Sexual Abuse, various stages of a case and the role of support persons during investigation, medical intervention and care, protection and rehabilitation was disseminated during the consultation.

The Protection of Children from Sexual Offence Act, 2012 (POCSO Act) which has come into force with effect from 14th November 2012 along with the Rules framed there under is a comprehensive law to provide for the protection of children from the offences of sexual assault, sexual harassment, and pornography, while safeguarding the interest of the child at every stage of judicial process by incorporating child-friendly mechanisms for reporting, recording evidence, investigation and speedy trial of offences through special courts.

X. 05 days Refresher Training Programmes comprising of 3 days of training on Civil and Criminal Matters clubbed with 2 days Training on CIS, e-Court Project, Cyber Law, Digital Evidence and other related Matters for Civil Judges (Senior Division)

A refresher training programme was organized for Civil Judges (Senior Division) from **27.09.2022 to 01.10.2022** in the institute. The course curriculum of this refresher training programme focused aspects which are crucial for session's trials including the recent technological interventions in legal and judicial field. The refresher training programme covered a wide range of legal aspects on both civil and criminal sides such as jurisdiction of civil court vis-a-vis revenue court, compromise/settlement of property approach in JSCC and PA cases, revision of tax assessment by local authority, suit valuation and court fees, interim injunction and interlocutory orders, issues relating to execution of decree, appreciation of evidence in civil matters, disposal of property in criminal cases, arrest, remand and police custody remand, use of video conferencing in court proceedings, disciplinary proceeding, inquiry and reconstruction of records, matters relating to NI Act and Domestic Violence Act, prosecution sanction, further investigation, FR disposal, post cognizance with special reference to *Vinu bhai Hari bhai Malviya v. State of Gujarat Case*, medico legal injuries, NARCO analysis & brain mapping, ballistic reports, DNA sample and finger printing, principles of sentencing, conviction warrant and victim compensation, appreciation of electronic evidence, Sexual Harassment of Women at Work Place (Prevention, Prohibition and Redressal) Act, 2013, issues and challenges in utilization of budget of DLSA, bail, age determination, custody of minors, preliminary assessment and final orders in the context of Juvenile Justice (Protection and Care of Children) Act, 2015 and stress management.

To make the training programme interactive, lively and participative, the participants were required to make presentations on some topics such as interim and short-term bail, parole and legal issues involved in *Satendra Kumar Antil v. CBI*, *Amarpreet Singh v. CBI* and tools and techniques to achieve the goals of Action Plan, 2022-23 in civil and criminal cases in view of the recent directions of Hon'ble Allahabad High Court.

SHORT ARTICLES

Law of Bail: Emerging Trends

By Sri Nishant Dev*

Law of Bail is one of the most important aspects of criminal justice system. It directly affects the sphere of personal liberty of an individual in a democratic republic. Article 21 of the Constitution of India guarantees the right to personal liberty except according to procedure established by law.

Bail touches the aspects of liberty, justice, public safety and burden of state exchequer. It is essential to a democratic republic with socially sensitised judicial process. The granting or denial of bail is regulated to a large extent the facts and circumstances of each case. The object of bail is neither punitive nor preventive. Deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon to do so. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty.

Hon'ble Supreme Court in the case of **Satendra Kumar Antil v. CBI** laid down detailed guidelines regarding the provision of bail especially post submission of charge sheet or cognisance in complaint cases. The directions were passed in a series of orders in SLP no. 29164 of 2021 on 7th October 2021 and 11th July 2022. The Court observed that the Jails in India are flooded with under trial prisoners. The statistics indicate that more than 2/3rd of the inmates of the prisons constitute under trial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognisable offence, being charged with offences punishable for seven years or less. The Court held that the bail is the rule and jail is the exception. Bail hearing is an expedited procedure.

The Court opined that the detailed provisions of arrest as given in section 41, 41A and 60 of the Code of Criminal Procedure are to be strictly followed by the police. The discretion to arrest shall be exercised after due compliance of Section 41 and 41A CrPC keeping in view the law laid down in the case of **Arnesh Kumar v State of Bihar (2014) 8 SCC 273**. All the State Governments and Union Territories were directed to felicitate standing orders for the procedure to be followed under Section 41 and 41A of the CrPC. Non-compliance of mandate of Section 41 and 41 A of the Code of Criminal Procedure would entitle the accused to grant of bail.

The Court directed that the Section 87 of the CrPC gives the discretion to the court to issue a warrant, either in lieu of or in addition to summons. The exercise of the aforesaid power can only be done after recording of reasons. A warrant can be eitherailable or non-ailable. Section 88 of the Code empowers the Court to take a bond for appearance of a person with or without sureties. Considering the aforesaid two provisions, courts will have to adopt the procedure in issuing summons first, thereafter aailable warrant, and then a non-ailable warrant may be issued, if so warranted, as held by Apex Court in **Inder Mohan Goswami v. State of Uttaranchal, (2007) 12 SCC 1**.

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Non-bailable warrants should not be issued without proper scrutiny of facts and complete application of mind.

As regards default bail, the Court held that it is not only the duty of the investigating agency but also the courts to see to it that an accused gets the benefit of Section 167 (2) CrPC. The Court directed the district courts to strictly enforce Section 436 A of the Code of Criminal Procedure.

The Court categorised the offences in four categories as regards the cases where the accused was not arrested during investigation and he cooperated during the investigation to the investigating agency. Category A offences are those which are punishable with imprisonment of 7 years or less and not falling in category B or D. Category B offences are those which are punishable with death, life imprisonment or imprisonment of more than 7 years. Category C covers the offences under Special Acts. Category D consists of economic offences not covered by Special Acts.

As regards Category A offences, the court directed the discretion should be exercised in favour of accused. Bail applications of such accused on appearance may be decided without the accused being taken in physical custody or by granting interim bail. At the first instance only summons are to be issued. In case of non appearance, then bailable warrants should be issued. Only after that the non-bailable warrants should be issued. Non-Bailable Warrants may be cancelled or converted into Bailable Warrants if such an application is moved before execution of Non-Bailable Warrants with undertaking to appear on date fixed.

Category B offences bail applications are to be decided on merits on case to case basis keeping in view the general principles of law.

Category C offences bail applications are to be dealt according to the individual enactment. However, it held that the general principle governing delay would apply to these categories also.

As regards the last category, economic offences, the law has been laid down by the Hon'ble Supreme Court in the case of **P. Chidambaram v. Directorate of Enforcement (2020) 13 SCC 791**. In determining whether to grant bail, both the seriousness of the charge and the severity of the punishment should be taken into consideration.

The Court held that the time frame must be fixed for disposal of bail applications. Therefore, it directed that the bail applications ought to be disposed off within a period of two weeks except if the provisions mandate otherwise, with the exception being an intervening application. Applications for anticipatory bail are expected to be disposed of within a period of six weeks with the exception of an intervening application.

It is virtually impossible to translate risk of non-appearance by the accused into precise monetary terms and even its basic premise that risk of financial loss is necessary to prevent the accused from fleeing is of doubtful validity. There are several considerations which deter an accused from running away from justice and risk of financial loss is only one of them and that too not a major one. Moreover, the bail system causes discrimination against the poor since the poor would not be able to furnish bail on account of their poverty while the wealthier persons otherwise similarly situate would be able to secure their freedom because they can afford to furnish bail. This discrimination can be diminished by providing speedy trial by strictly complying

with the provisions of Section 309 CrPC. After all, right to a fair and speedy trial is yet another facet of Article 21. Therefore, while it is expected of the court to comply with Section 309 of the Code to the extent possible, an unexplained, avoidable and prolonged delay in concluding a trial, appeal or revision would certainly be a factor for the consideration of bail.

The grant or refusal to grant bail lies within the discretion of the court. It is largely dependent on the facts and circumstances of each case. But at the same time, it should not be denied merely because of the sentiments of the community against the accused. The courts should exercise the discretion in time bound and judicious way to uplift the plight of common man.

A Comprehensive Approach to Medico - Legal Injuries

By Sri Vijay Kumar Katiyar*

Medico-legal injuries play a pivotal role in dealing with criminal matters. If any Judge or Magistrate has no knowledge about medico-legal injuries, then he cannot appreciate scientific evidence in a proper manner. Even though Judges are not medical experts but they must have a basic understanding of injuries and their appreciation. On the basis of gravity, we can classify injuries into three parts which are simple injury, grievous injury and fatal injury.

The injuries mentioned above have been well defined in the Indian Penal Code like Sections 319, 320, 323,324,325, etc. In simple term, we can say Injuries which is not related to a permanent bodily injury is known as simple injury. If the injury is related to permanent bodily injury, then such injury is known as grievous injury. If the injury is caused by any person in the vital part of the body and in such a nature it is likely to cause the death of the person to whom such injury has been caused by the same.

Precautions while examining medical experts or injured witnesses

The first very important precaution is the statement of injured or medical expert witnesses must be recorded either by the presiding officer himself or by the other officials under the supervision of the presiding officer because you are the law knowing and have experience in practice and even you know the consequences of the statements recorded before the Court. Another aspect is that if the statement would be recorded by the Magistrate, then the gesture and posture of the witness would also be recorded which is very relevant for the testifying of the veracity of the witness.

The second very important precaution is while the defence counsel is doing cross-examination with an expert witness like a doctor or radiologist or any other forensic expert if some suggestions have been put by the defence counsel and such suggestions are contradictory with the prosecution version or against a particular medical or forensic report, during this active role of the presiding officer is necessary. If the medical report of the injured is before the court and the doctor who examined the injury is before the court and all injuries mentioned under the report are simple in nature except one injury, one injury is grievous in nature, expert opinion is these injuries caused by a hard and blunt object, the suggestion of the defence counsel during cross-examination is, whether these injuries may be caused by fall in the earth, doctor simple said yes it may be caused, in this case, PO has to put the question to the expert doctor which book you are relying upon in respect of his particular opinion, it should be noted during the examination and it will help the Court while appreciating evidence if doctor's opinion is supported by any authentic book of medico-legal, then you can rely upon such opinion other you have the liberty to discard those opinions which are not supported by any reference book of medico-legal but in this situation, the role of the Court is very pivotal.

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Appreciation of medical evidence

Discussion of injury reports in the judgment is necessary. The Hon'ble Allahabad High Court has directed all the trial judges and magistrates in the State of U.P. that the Post-mortem report and medical examination reports must be quoted in the judgments and properly discussed failing which High Court shall take serious note of the omissions. There are three circular orders on this point which are - C.L. No. 13/VII-47, dated 3.3.1982, C.L. No. 4/2003, dated 20.2.2003 & C.L. No. 33, dated 28.9.2004.

FIR and Majroobi Chitthi

FIR and Majroobi Chitthi are very important documents. FIR is key to the prosecution story, and it is always to be kept in mind that FIR is not an encyclopaedia. If FIR has been lodged by the injured then the value of the FIR in respect of his oral statement becomes very relevant because the injury or way of causing injury is mentioned in the FIR, and the oral evidence is making a chain with FIR, then it will become a strong prosecution case. If the FIR has been lodged by a person other than the injured then the mentioned injuries in the FIR or manner of injuries would be relevant if such FIR has been proved by the witness concerned, then FIR can be used for corroboration as well as contradiction of the statement of the witnesses. In **State of U.P. v. Harban Sahai, 1998 (37) ACC 14 (Supreme Court—Three Judge Bench)**, Hon'ble Supreme Court held that even though there was no mention of "Kanta" in FIR and the deceased had one incised wound on the right-side chest. Eye witness deposed about "Kanta" in court. The discrepancy between medical and oral evidence was held to be insignificant as the use of kanta was not ruled out. The Supreme Court held that the testimony of an eyewitness cannot be discarded simply on the opinion of a medical expert.

The role of majroobi Chitthi is also very relevant, if it is already proved by the witness concerned then it can also be used for corroboration as well as contradiction of the statements of the witnesses. It is very clear that FIR and Majroobi Chitthi is not the piece of substantive evidence but they can use for corroboration and contradiction of the statements of witnesses.

Statements of 161 Cr. P.C

It is a general principle that a statement under Section 161 Cr.P.C. has no relevancy and is not admissible in evidence in a criminal trial, it can be used only for the contradiction of the statements of the witnesses. The accused can use this statement while his counsel is doing a cross-examination of witnesses, the prosecution may use it only with the permission of the Court, generally when witnesses turn hostile or in case of re-examination of witnesses. Sub-clause (1) of Section 162 clearly said that provided, at any inquiry or trial in respect of any offence under investigation at the time when such statement was made: Provided that when any witness is called for the prosecution in such inquiry or trial whose statement has been reduced into writing as aforesaid, any part of his statement, if duly proved, may be used by the accused, and with the permission of the Court, by the prosecution, to contradict such witness in the manner

provided by section 145 of the Indian Evidence Act, 1872 and when any part of such statement is so used, any part thereof may also be used in the re-examination of such witness, but for the purpose only of explaining any matter referred to in his cross-examination.

In Poddar Narayana v. State of AP (1975) 4 SCC 153, Hon'ble Supreme Court held that a statement recorded by the police officer during the investigation is inadmissible in evidence and proper procedure is to confront the witness with the contradictions when they are examined and then ask the investigating officer about these contradictions.

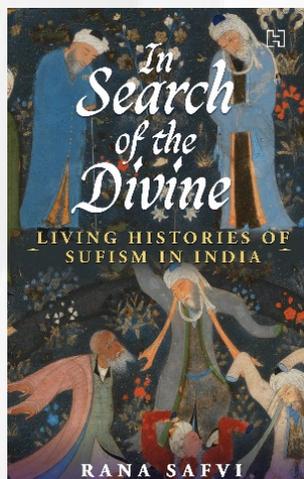
In Deoman Upadhyaya v. State, AIR 1960 All 1 (F.B), Hon'ble Allahabad High Court held that Section 162 lays down the limited use to which a statement is recorded under Section 161 of the said Code can be put. The Courts are prohibited from using such statements as corroboration of the statement made in Court.

It is noteworthy to mention here that for the just and proper decision, powers of the Court to put the questions are not affected by Section 162 Cr. P.C. **In Raghunandan v. State of UP, (1974) 4 SCC 186**, Hon'ble Court held that it is true that the ban imposed by the Section 162 against the use of a statement of the witness recorded by the police during the investigation, appears sweeping and wide. But at the same time the power of the Court under section 165 Evidence Act to put any question to a witness, is not barred by section 162, Court can put the questions.

In State of Haryana v. Bhagirath, AIR 1999 SC 2005, Hon'ble Supreme Court held that if the opinion given by a doctor is bereft of logic or objectivity or is not consistent with probability, the court has no liability to go by that opinion merely because it is said by a doctor. The opinion given by a medical witness need not be the last word on the subject and such an opinion shall be tested by the Court. **In Anil Rai v. State of Bihar, (2001) 7 SCC 318**, Hon'ble Supreme Court held that where medical evidence shows two possibilities, one that is consistent with reliable direct evidence should be accepted. It is now concluded that the injured witness is a more trustworthy witness other than ordinary witnesses. It is also to be born in mind that a doctor's evidence is a mere opinion if it is consistent with direct evidence then it works in its true sense. The focus of this article is to cover only the Magistrate triable cases.

BOOK REVIEW

By Dr. Humayun Rasheed Khan*



Title of the Book
In Search of the Divine

Author
Rana Safvi

Publisher
Hachette India

Year of Publication
2022

Religion has always played and continues to play a vital role in human life. Religious practices in South Asia particularly India, Pakistan, Bhutan, Bangladesh, and Nepal have been an inseparable part of daily lives. The debate between ‘Grand Design’ and ‘Accidental Birth’ of this world is an old debate and religious people have vociferously asserted in favour of ‘Grand Design’ whereas atheist and evolution theory supporters have been heavily tilted in favour of the ‘Accidental Birth’ of this world. However, the scientific evidence has now established that this world is the result of ‘Grand Design’, it had been created and it has a creator. The creator of this grand world is the omnipotent, omnipresent and omniscient Almighty God. There are many religious streams where mystics are in search of God and Sufism is one such group of people who are in search of divine, oneness of God and finding the pathway through practicing love and affection towards the fellow human beings.

The author of the book under review is an established scholar on Sufism and has previously extensively written entirely about Sufism. The author’s passionate belief in India’s unique civilizational legacy and pluralistic culture is clearly visible across the four hundred pages of the marvelous book on Sufism. In fact, Sufism owes its origin in Arabic world ‘*tasawwuf*’ which means devoting oneself to the contemplation of God but it is generally used for the process of becoming a Sufi. Sufism, indeed, is the act of following a mystical path and a quest for ethical and moral perfection in search of the divine.

Sufism also extensively focuses on ‘*ahsan*’ and ‘*akhlaq*’ which were central to the life of Prophet Mohammed and the same is emulated by the Sufi Saints. It also foregrounds the role of Sufis in fostering a composite culture in India. The book is divided into three parts. Part I deals with ‘Islam and Sufism’ covering an elaborate introduction of Sufism, its origin and its spread across the world.

Part II of the book deals with ‘Saints and Silsilahs’ where a detailed discussion is made by author on mystic orders – *Chisthis*, *Suhrawardis*, *Qadriyas*, *Naqshbandis*, *Qalandars* and other Silsilahs in India.

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Part III of the book deals with ‘Shrines and Devotees.’ This part alone covers ten chapters out of a total of nineteen chapters. This part deals with religious history and religious symbols in the context of Sufism. It beautifully covers almost all the popular shrines of Sufi Saints in North India, East and North East India, South India, Central and West India with touching experiences mentioned by the author. It also deals with the possessed and dispossessed and talks about cures in shrines for two main types of maladies – ‘black magic’ and ‘*sahr*.’

The author says in chapter seventeen that when we think of Sufism, we immediately perceive and get connected to *qawwalis* and *Rumi’s* mystical verses. She further says that power of music and poetry convey a mystical experience which is unparalleled that are art forms associated with Sufi culture, Shrines and *Khanqahs*. She talks about ‘*Sama*’ which is the glue that binds diverse people, diverse practices and diverse beliefs and invites them to inter a shared space that becomes the vehicle of deliverance.

The last chapter of the book is entitled as ‘Separated by the Scream’ which talks about role and position of a woman as devotee and covers discussion on the distance that is required to be kept between man and woman in Islamic traditions and a woman as a devotee to Sufi Saints. This chapter also includes specific discussion on some famous Indian Women Sufi Saints. While concluding the last chapter, the author says that Sufi Saints continue to attract thousands of visitors, devotees and disciples all across the world, irrespective of misunderstanding, misconceptions and propaganda against Sufi Saints.

This reviewer would end the review process by referring to the beginning is wonderfully written of the book where the author mentions the beautiful words of Amir Khusrau:-

*‘Khusrau Darya Prem Ka;
Uti wa ki dhaar;
Jo utra so doob gaya,
Jo dooba so paar.’
[O Khusrau, the river of love
Flows in strange directions.
The one who jumps in, drowns;
And the one who drowns, crosses it.]*

LEGAL JOTTING

“

“Disciplinary enquiries have to abide by the rules of natural justice. But they are not governed by strict rules of evidence which apply to judicial proceedings. The standard of proof is hence not the strict standard which governs a criminal trial, of proof beyond reasonable doubt, but a civil standard governed by a preponderance of probabilities.”

Hon’ble Mr. Justice Sudhanshu Dhulia
Judge, Supreme Court of India
State of Rajasthan v. Phool Singh,
AIR 2022 SC 4176: AIR Online SC 1378

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SUPREME COURT

1. **Owners and Parties interested in the Vessel M.V. Polaris Galaxyv. Banque Cantonale De Geneve, 2022 SCC Online SC 1293**

Law/ Act(s)/ Rule(s) : Section 12 & 14 of Admiralty (jurisdiction and settlement of Maritime Claims) Act, 2017; Order 1 Rule 10(2), Order XLIII Rule in relation to Commercial Court Act, 2015.

Held: Order passed under Order 1 Rule 10(2) of CPC for addition of a party is not appealable under Section 14 read with Section 12 of the Admiralty Act.

Regarding interpretation of statutes: Which Statute would prevail if two or more statutes contain statutory provisions which start with the clause “*notwithstanding anything contained in any other law for the time being in force*” and those statutes contain conflicting provisions?

Observed:

- A clause with the words “notwithstanding anything contained in any other law for the time being in force” is generally appended at the beginning of a section with a view to give the enacting part of the section overriding effect in case of conflict with any other law;

- As a general rule, the Special Statutes prevail over General Statutes. If both statutes are general statutes or special statutes containing identical or similar non-obstante clauses, the later statute would prevail;
- However, the rule that a non-obstante clause in a later statute prevails over the non-obstante clause in an earlier statute is not an absolute rule. The question, of which provision prevails, would necessarily depend on the object of the enactment and, in particular, the object of giving overriding effect to the enactment or any specific provision thereof.
- When two or more enactments operating in the same field contain a non obstante clause stating that its provisions will have effect notwithstanding anything inconsistent therewith contained in any other law, the conflict has to be resolved upon consideration of the purpose and policy underlying the enactments.

2. Sushanta Kumar Banik v. State of Tripura & Ors, AIR Online 2022(SC)349

Law/ Act(s)/ Rule(s) involved:Section 37 & issued related to preventive Detention under Narcotic Drugs & Psychotropic Substances Act, 1988 –

Held:

- If there is unreasonable delay between the date of the order of detention & actual arrest of the detenu and in the same manner from the date of the proposal and passing of the order of detention, such delay unless satisfactorily explained throws a considerable doubt on the genuineness of the requisite subjective satisfaction of the detaining authority in passing the detention order and consequently render the detention order bad and invalid because the “live and proximate link” between the grounds of detention and the purpose of detention is snapped in arresting the detenu.
- A question whether the delay is unreasonable and stands unexplained depends on the facts and circumstances of each case.
- A plain reading of the Section 37 of NDPS Act would indicate that the accused arrested under the NDPS Act, 1985 can be ordered to be released on bail only if the Court is satisfied that there are reasonable grounds for believing that the accused is not guilty of such offence and that he is not likely to commit any offence while on bail.
- The preventive detention is a serious invasion of personal liberty and the normal methods open to a person charged with commission of any offence to disprove the charge or to prove his innocence at the trial are not available to the person preventively detained and, therefore, in prevention detention jurisprudence whatever little safeguards the Constitution and the enactments authorizing such detention provide assume utmost importance and must be strictly adhered to.

3. Kolli Satyanarayana (dead) by legal representatives v. Valuripalli Kesava Rao Chowdary (dead) through legal representatives and others, AIR Online 2022(SC)339

Law/ Act(s)/ Rule(s) involved:Specific Relief Act 1963

Held:

- The court should look at all the relevant circumstances including the time limit(s) specified in the agreement and determine whether its discretion to grant specific performance should be exercised.
- While exercising its discretion, the court should bear in mind that when the parties prescribe certain time limit(s) for taking steps by one or the other party, it must have some significance and that the said time limit(s) cannot be ignored altogether on the ground that time is not the essence of the contract.

4. Moreshar Yadaorao Mahajan v. Vyankatesh Sitaram Bhedi (dead) through legal representatives and others, AIR Online 2022(SC)346

Law/ Act(s)/ Rule(s) involved: Order 1 Rule 9, CPC & Specific Relief Act, 1963

Held:

- a “necessary party” is a person who ought to have been joined as a party and in whose absence no effective decree could be passed at all by the court. It has been held that if a “necessary party” is not impleaded, the suit itself is liable to be dismissed.
- for being a necessary party, the twin test has to be satisfied:
 - (i) there must be a right to some relief against such party in respect of the controversies involved in the proceedings.
 - (ii) No effective decree can be passed in the absence of such a party.
- Since the suit property was jointly owned by the defendant along with his wife and three sons, an effective decree could not have been passed affecting the rights of the defendant’s wife and three sons without impleading them.

5. Life Insurance Corporation of India v. Sanjeev Builders Private Limited & anr., 2022 SCC Online SC 1128

Law/ Act(s)/ Rule(s) involved: Order 2 Rule 2, Section 11& Order 6 Rule 17 of CPC; and Section 21 & 22 of Specific Relief Act 1963

Held:

- Order II Rule 2 CPC operates as a bar against a subsequent suit not in the field of amendment of pleadings in the same suit.
- All amendments are to be allowed which are necessary for determining the real question in controversy provided it does not cause injustice or prejudice to the other side. This is mandatory under Order VI Rule 17 of the CPC.
- The prayer for amendment is to be allowed-
 - (i) if the amendment is required for effective and proper adjudication of the controversy between the parties, and
 - (ii) to avoid multiplicity of proceedings, provided
 - (a) the amendment does not result in injustice to the other side,
 - (b) by the amendment, the parties seeking amendment does not seek to withdraw any clear admission made by the party which confers a right on the other side and

- (c) the amendment does not raise a time barred claim, resulting in divesting of the other side of a valuable accrued right (in certain situations).
- A prayer for amendment is generally required to be allowed unless
 - (i) by the amendment, a time barred claim is sought to be introduced, in which case the fact that the claim would be time barred becomes a relevant factor for consideration,
 - (ii) the amendment changes the nature of the suit,
 - (iii) the prayer for amendment is malafide, or
 - (iv) by the amendment, the other side loses a valid defence.
 - In dealing with a prayer for amendment of pleadings, the court should avoid a hyper technical approach, and is ordinarily required to be liberal especially where the opposite party can be compensated by costs.
 - Where the amendment would enable the court to pin-pointedly consider the dispute and would aid in rendering a more satisfactory decision, the prayer for amendment should be allowed.
 - Where the amendment merely sought to introduce an additional or a new approach without introducing a time barred cause of action, the amendment is liable to be allowed even after expiry of limitation.
 - Amendment may be justifiably allowed where it is intended to rectify the absence of material particulars in the plaint.
 - Delay in applying for amendment alone is not a ground to disallow the prayer. Where the aspect of delay is arguable, the prayer for amendment could be allowed and the issue of limitation framed separately for decision.
 - Where the amendment changes the nature of the suit or the cause of action, so as to set up an entirely new case, foreign to the case set up in the plaint, the amendment must be disallowed. Where, however, the amendment sought is only with respect to the relief in the plaint, and is predicated on facts which are already pleaded in the plaint, ordinarily the amendment is required to be allowed.
 - Where the amendment is sought before commencement of trial, the court is required to be liberal in its approach.
 - The provision which empowers the court in its discretion to permit a party to amend his pleadings, was already on the statute book, when the Specific Relief Act, 1963 was enacted. It can, therefore, be presumed that when the latter legislation was on the anvil, the Parliament was aware of this power of the court to permit amendment of pleadings. Therefore, a suit for specific performance falling under the provisions of the Act, 1963 would also be governed by the provisions of the CPC including the provisions contained in Order VI Rule 17 of the CPC.
 - Section 21(5) of the Act 1963 was originally introduced to resolve the confusion over whether the court had the power to grant compensation in a claim for specific performance in absence of any pleading to that effect under the provisions of the Act 1963.
 - Under Section 21(2), the court is empowered to award compensation for breach where it holds that there is a contract between the parties which was broken by the defendant but in the event, it decides that specific performance ought not to be granted.
 - Section 21(3) empowers the court to grant compensation for breach in addition to a decree for specific performance where it is of the view that specific performance alone would not satisfy the justice of the case.

- Section 21(5), however, stipulates that compensation cannot be awarded under the section unless the Plaintiff has claimed such compensation in the plaint. This provision is mandatory. And, proviso to sub-section (5) of Section 21 dilutes the rigours of the main provision by allowing the plaintiff who has not claimed such compensation in the plaint to amend the plaint at any stage of the proceedings and the court, it has been provided, shall at any stage of the proceedings allow an amendment for including a claim for such compensation on such terms as may be just.
- Section 22 has a non-obstante provision which overrides the CPC. A plaintiff who claims specific performance of a contract for the transfer of immovable property, may in an appropriate case ask for possession, partition, and separate possession of the property, in addition to specific performance.
- After amendment in the year 2018, in Section 21 of the Principal Act, damages are now available only in addition to specific performance and not in lieu thereof.
- The Amending Act has eliminated the discretion of courts by substituting Sections 10 and 20 of the Principal Act.

6. Sukhbiri Devi & Ors. v. Union of India & Ors., 2022 SCC Online 1322

Law/ Act(s)/ Rule(s) involved: Order XIV, Rule 2(2)(b) of CPC, Limitation Act

Held:

- Issue of limitation can be framed and determined as a preliminary issue in a case where it can be decided on admitted facts
- Limitation is a mixed question of law and facts It will shed the said character and would get confined to one of question of law when the foundational fact(s), determining the starting point of limitation is vividly and specifically made in the plaint averment
- Misquoting or non-quoting of a provision by itself will not make an order bad so long as the relevant enabling provision is in existence and it was correctly applied though without specifically mentioning it. (Para 25)
- Article 136 of Limitation Act applies only when an application for execution of any decree (other than a decree granting a mandatory injunction) or order of any Civil Court is to be filed.

7. Chotkau v. State of Uttar Pradesh, AIR Online 2022(SC)337

Law/ Act(s)/ Rule(s) involved: Section 157 (1), 53A, & 164A of CrPC

Held:

- The word "forthwith" in Section 157(1) of the Code is to be understood in the context of the given facts and circumstances of each case and a straight-jacket formula cannot be applied in all cases.
- But where ocular evidence is found to be unreliable and thus unacceptable, a long delay has to be taken note of by the Court.
- The mandate of Section 157(1) of the Code being clear, the prosecution is expected to place on record the basic foundational facts, such as, the Officer who took the first

information report to the jurisdictional court, the authority which directed such a course of action and the mode by which it was complied.

- Explaining the delay is a different aspect than placing the material in compliance of the Code. For instance, the delay in forwarding the FIR may certainly indicate the failure of one of the external checks to determine whether the FIR was manipulated later or whether it was registered either to fix someone other than the real culprit or to allow the real culprit to escape. While every delay in forwarding the FIR may not necessarily be fatal to the case of the prosecution, Courts may be duty bound to see the effect of such delay on the investigation and even the creditworthiness of the investigation.
- In cases where the victim of rape is alive and is in a position to testify in court, it may be possible for the prosecution to take a chance by not medically examining the accused. But in cases where the victim is dead and the offence is sought to be established only by circumstantial evidence, medical evidence assumes great importance. The failure of the prosecution to produce such evidence, despite there being no obstacle from the accused or anyone, will certainly create a gaping hole in the case of the prosecution and give rise to a serious doubt on the case of the prosecution.
- While Section 53A enables the medical examination of the person accused of rape, Section 164A enables medical examination of the victim of rape. Both these provisions are somewhat similar and can be said approximately to be a mirror image of each other. But there are three distinguishing features. They are:
 - (i) Section 164A requires the prior consent of the women who is the victim of rape. Alternatively, the consent of a person competent to give such consent on her behalf should have been obtained before subjecting the victim to medical examination. Section 53A does not speak about any such consent;
 - (ii) Section 164A requires the report of the medical practitioner to contain among other things, the general mental condition of the women. This is absent in Section 53A;
 - (iii) Under Section 164A(1), the medical examination by a registered medical practitioner is mandatory when, “it is proposed to get the person of the women examined by a medical expert” during the course of investigation. In contrast, Section 53A(1) merely makes it lawful for a registered medical practitioner to make an examination of the arrested person if “there are reasonable grounds for believing that an examination of his person will afford evidence as to the commission of such offence”.
- Section 53A enables the prosecution to obtain a significant piece of evidence to prove the charge. The failure of the prosecution in this case to subject the appellant to medical examination is certainly fatal to the prosecution case especially when the ocular evidence is found to be not trustworthy.

8. The State of Madhya Pradesh v. Nandu @ Nandua, AIR Online 2022(SC)1379

Law/ Act(s)/ Rule(s) involved: Sentence in Section 302 IPC

Held:

- The minimum sentence provided for the offence punishable under Section 302 IPC would be imprisonment for life and fine. Any punishment less than the imprisonment for life for the offence punishable under Section 302 would be contrary to Section 302 IPC.

9. S.P. Mani and Mohan Dairy v. Dr. Snehalatha Elangovan, 2022 SCC Online SC 1238

Law/ Act(s)/ Rule(s) involved:Section 138 & 141 of NI Act

Held:

- Vicarious criminal liability can be inferred against the partners of a firm when it is specifically averred in the complaint about the status of the partners 'qua' the firm.
- On the other elements of an offence under Section 138 being satisfied, the burden is on the Board of Directors or the officers in charge of the affairs of the company/partners of a firm to show that they were not liable to be convicted.
- It is essential for the person to whom statutory notice is issued under Section 138 of the NI Act to give an appropriate reply. The person concerned is expected to clarify his or her stance. If the person concerned has some unimpeachable and incontrovertible material to establish that he or she has no role to play in the affairs of the company/firm, then such material should be highlighted in the reply to the notice as a foundation.
- The object of notice before the filing of the complaint is not just to give a chance to the drawer of the cheque to rectify his omission to make his stance clear so far as his liability under Section 138 of the NI Act is concerned.

10. X v. The Principal Secretary, Health and Family Welfare Department, Govt. of NCT of Delhi& anr., 2022 SCC Online SC 1321

Law/ Act(s)/ Rule(s) involved:Medical Termination of Pregnancy Act, 1971& Rules 2003

Held:

- All women are entitled to safe and legal abortions.
- There is no rationale in excluding unmarried women from the ambit of Rule 3B of MTP Rules which mentions the categories of women who can seek abortion of pregnancy in the term 20-24 weeks.
- A narrow interpretation of Rule 3B, limited only to married women, would render the provision discriminatory towards unmarried women and violative of Article 14 of the Constitution.
- Rape includes 'marital rape' for the purpose of MTP Rules.
- Rule 3B(b) includes minors within the category of women who may terminate their pregnancy up to twenty-four weeks
- the RMP need not disclose the identity and other personal details of the minor in the information provided under Section 19(1) of the POCSO Act.
- The state must ensure that information regarding reproduction and safe sexual practices is disseminated to all parts of the population. Further, it must see to it that all segments of society are able to access contraceptives to avoid unintended pregnancies and plan their families.
- Medical facilities and RMPs must be present in each district and must be affordable to all.
- The government must ensure that RMPs treat all patients equally and sensitively. Treatment must not be denied based on caste or due to other social or economic factors.

- It is clarified that nothing in this judgment construed as diluting the provisions of the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act 1994.

11. Anju Garg &anr. v.Deepak Kumar Garg, 2022 SCC Online SC 1314

Law/ Act(s)/ Rule(s) involved:Section 125 of CrPC

Held:

- The husband is required to earn money even by physical labour, if he is an able-bodied, and could not avoid his obligation, except on the legally permissible grounds mentioned in the statute.
- Section 125 of CrPC was conceived to ameliorate the agony, anguish and financial suffering of a woman who is required to leave the matrimonial home, so that some suitable arrangements could be made to enable her to sustain herself and the children.
- The object of maintenance proceedings is not to punish a person for his past neglect, but to prevent vagrancy and destitution of a deserted wife, by providing her food, clothing, and shelter by a speedy remedy.
- Section 125 Cr.P.C. is a measure of social justice and is specially enacted to protect women and children. It also falls within the Constitutional sweep of Article 15(3), reinforced by Article 39 of the Constitution of India.

12. Raman (dead) by legal representativesv. R. Natarajan, AIR 2022(SC)4343

Law/ Act(s)/ Rule(s) involved:Section 12 of Specific Relief Act, 1963

Held:

- A Court cannot grant the relief of specific performance against a person compelling him to enter into an agreement with a third party and seek specific relief against such a third party.

13. Selvakumarv.Manjula &anr, 2022(4) SC 215

Law/Act(s)/Rule(s) involved:Section 16 & 17 of Bonded Labour System (Abolition) Act, 1976

Held:

- For attracting the provision of Section 16 of the Act, the prosecution must establish that an accused has forced and compelled the victim to render bonded labour. This force and compulsion must be at the instance of the accused and the prosecution must establish the same beyond reasonable doubt.
- Similarly, under Section 17 of the Act, there is an obligation on the prosecution to establish that the accused has advanced a bonded debt to the victim.

14. G.N.R. Babu @ S.N. Babu v. Dr. B.C. Muthappa & ors., AIR 2022 (SC) 4213

Law/ Act(s)/ Rule(s) involved:Section 96, 105 and Order 9 Rule 13 of CPC

Held:

- When an ex-parte decree is passed, the defendant (apart from filing a review petition and a suit for setting aside the ex-parte decree on the ground of fraud) has two clear options, one, to file an appeal and another to file an application for setting aside the order in terms of Order 9 Rule 13 of the Code.
- He can take recourse to both the proceedings simultaneously but in the event the appeal against a decree passed ex-parte has been disposed of on any ground other than withdrawal, application for setting aside ex-parte decree will not lie.
- However, in the event an application under Rule 13 of Order IX of CPC is dismissed, the defendant can prosecute the appeal against the decree as a right to prefer appeal under Section 96.
- When application under Rule 13 of Order IX of CPC filed by a defendant is dismissed, the defendant cannot be permitted to raise a contention as regards the correctness or otherwise of the order posting the suit for ex-parte hearing and/or existence of a sufficient cause for non-appearance of the defendant.
- However, when the defendant did not avail the remedy under Rule 13 of Order IX of CPC, the appellant/defendant would not be entitled to lead evidence in appeal for making out a sufficient cause for his absence before the trial court, he can always argue based on the record of the suit that either the suit summons was not served upon him or that even otherwise also, the trial court was not justified in proceeding ex-parte against him [Section 105 of CPC].

ALLAHABAD HIGH COURT

1. Ram Pyarey Singh v. State of U.P., Writ-A No. - 15522 of 2017

Law/ Act(s)/ Rule(s) involved:Departmental Proceedings

Held:

- In the departmental proceedings, the charges unless proved, cannot form the basis of any punishment.
- The standard of proof is different as against required standard in the case of criminal trial the charges leveled must stand provided on the basis of relevant material.
- The moment charge is required to be provided necessity would arise to adduce evidence which may be documentary or oral or both.
- The burden to prove charges lies upon the department and therefore department owes its liability first to adduce evidence and take steps for proving the charge, it is after this stage that the delinquent would be required to rebut the evidence adduced and also cross-examine the witnesses produced: or to nullify it by adducing such evidence that may be available or to show cause unworthiness of the documents which are sought to be relied upon but this can only be done if the Enquiry Officer fixes a date for adducing evidence not otherwise.

- It is to be kept in mind that denial of charges and admission of charges cannot be taken on the same footing. There may be case where delinquent denying charge specifically and there may be cases where delinquent does not refer to charges and in such case also, the Enquiry Officer would be under obligation to hold enquiry to see that the charges are proved or not. It is only where in a case the delinquent admits charge the department need not to lead any evidence before the Enquiry Officer and the charges can be taken as proved.
- The order passed in violation of principles of natural justice if no proper opportunity of hearing has been given to cross-examine the witnesses and the documents relied upon in submitting the report.

2. Ramesh Prasad v. State of U.P., Criminal Misc. Bail Application No. - 41890 of 2022

Law/ Act(s)/ Rule(s) involved: Bail

Held:

- The grant of bail to an under trial prisoner being the rule and its denial being the exception, the Courts are expected to be more sensitive while dealing with bail applications. Moreover, when the principal offence alleged against the accused is a bailable offence, there is no justification for rejection of his bail application.

3. Peeyush Kumar Jain v. Union of India, Criminal Misc. Bail Application No. - 21223 of 2022

Law/ Act(s)/ Rule(s) involved:Bail in respect of offence under Section 132 (1) (a) read with Section 132 (1) (i) and 132 (5) of the Central Goods and Services Tax Act, 2017.

Held:

- The position of law regarding grant of bail which emerges from the judgments of the Supreme Court referred to above, is that the basic jurisprudence relating to bail in economic offences remains the same inasmuch as the grant of bail is the rule and refusal is the exception so as to ensure that the accused has the opportunity of securing fair trial.
- It is not advisable to categorize all the economic offences into one group and deny bail on that basis. One of the circumstances to consider the gravity of the offence is the term of sentence that is prescribed for the offence the accused is alleged to have committed. Even if the allegation is one of grave economic offence, it is not a rule that bail should be denied in every case since there is no such bar created in the relevant enactment passed by the legislature nor does the bail jurisprudence provide so.
- While considering the prayer for grant of bail in any offence, including an economic offence, the Court has to consider:
 - (i) the nature of accusation and the severity of the punishment to which the party may be liable in the case of conviction and the nature of the materials relied upon by the prosecution;
 - (ii) reasonable apprehension of tampering with the witnesses or apprehension of threat to the complainant or the witnesses;

- (iii) reasonable possibility of securing the presence of the accused at the time of trial or the likelihood of his abscondence;
- (iv) character, behaviour and standing of the accused and the circumstances which are peculiar to the accused;
- (v) larger interest of the public or the State and similar other considerations.

By -
Ms. Priti Chaudhary,
Deputy Director, JTRI

Judicial Training and Research Institute, U.P., Lucknow

The Institute was established by the Government of Uttar Pradesh in pursuance of a decision taken at All India Conference of the Chief Justices of High Courts in August/September, 1985 in New Delhi. This landmark conference which was also attended by the Chief Ministers and the Law Ministers of the States, mooted the idea of providing institutional induction and in-service training to the judges of the subordinate courts in the country. The initiative of the state government after being readily agreed to by the Hon'ble High Court of Judicature at Allahabad, saw the Institute coming into existence and becoming functional on 25th April, 1987 with Hon'ble Mr. Justice K.N. Goyal as its first honorary Director. Sri Vinod Singh Rawat is its present Director.

The institute has been established with the overall vision of ensuring ceaseless upgradation of skills and appropriate attitudinal reorientation through induction level and in-service training in consonance with the imperatives of national and global environment.

In the training programmes, case studies, discussion sessions, exercises and activity based studies; book review and case law presentation are used extensively. To make the discussion effective, background material is given before discussion. This helps the trainees to develop analytical skills and decision-making power in addition to enable them in writing orders/judgments.

Keeping in view that in a healthy mind rests a healthy body, the institute has established and developed a gymnasium with latest equipments and machines. The physical training is compulsory part of the training programmes organized by the institute. The facilities of gym have been made available to the trainee officers as well as faculty members.

The Institute believes in continuous involvement of officers in sports activities to relieve the stress and keep them healthy. Besides Volley Ball and Carom, the hostel is also having Badminton Court as well as Table-tennis facilities. The hostel is fully furnished and equipped with the best house-keeping and hospitality facilities. The institute has a big air-conditioned Dining Hall with a dining capacity of about 150 persons at a time. The dining Hall is housed with the officers' hostel in one and the same building.

Judicial reasoning, indeed, is both an art and a science to be cultivated by every judge through study, reflection and hard work. The institute has a beautiful and big library housed into two spacious air-conditioned halls in the 'Training Wing' with one being dedicated to law books, law digest, encyclopedia, commentaries and general books including classics, biographies, fictions (Hindi and English both) memoirs, letters, speeches, words and phrases, books of philosophy, religion, history, politics, computer, management, personality development etc. and the other wing is exclusively meant for storing Journals. This centre of knowledge has more than **25000 books**. The institute has been subscribing **15 Law Journals** of varied nature, **seven newspapers** and **four magazines**. The library has All England Law Reports from 1936 to 2014, Halsbury's Laws of India from 2004 to 2008, Halsbury's Laws of England from 1973 to 1987 and Corpus Juris Secundum from Vol. 1 to 101A, Canadian Law reports, American Law Reports Annotated and Law Commission of India Reports. The institute is working on to develop e-knowledge hub and e-library in near future.