

would not debar criminal case - There is no bar on simultaneous proceeding in civil as well as criminal case or after decree in civil suit. (*Vikram Vs State of Rajasthan & Anr.*)

2015(3) Criminal Court Cases 627 (Rajasthan)

SC **Civil & Criminal proceedings** - Misappropriation and cheating - Civil suit as well as criminal complaint filed - Held, both the proceedings are separate, independent and one cannot abate or defeat the other. (*Rashida Kamaluddin Syed & Anr. Vs Shaikh Saheblal Mardan (dead) through Lrs. & Anr.*) **2007(2) Criminal Court Cases 753 (S.C.)**

SC **Civil & Criminal proceedings** - Only because a civil remedy may be available to complainant that itself cannot be a ground to quash a criminal proceeding. (*Vesa Holdings P.Ltd. & Anr. Vs State of Kerala & Ors.*) **2015(2) Criminal Court Cases 849 (S.C.)**

Civil & criminal proceedings - Quashing of criminal proceedings - Criminal proceedings cannot be quashed merely on the ground that civil proceedings are pending - Civil and criminal proceedings may run parallel to each other. (*Tapas Adhikari Vs State of U.P.*) **2009(3) Criminal Court Cases 085 (Allahabad)**

SC **Civil & Criminal proceedings** - Where a transaction giving rise to cause of action for a civil action may also involve a crime in which case resort to criminal proceedings may be justified - There is judicially acknowledge tendency in commercial world to give colour of a criminal case to a purely commercial transaction. (*Ramdev Food Products Pvt. Ltd. Vs State of Guj.*) **2015(2) Criminal Court Cases 735 (S.C.)**

SC **Civil & Criminal law** - Liability of a person can be both civil and criminal - Stand taken in complaint when found to be contrary or inconsistent with the stand taken in civil suit, then it assumes significance. (*B.Suresh Yadav Vs Sharifa Bee & Anr.*) **2007(4) Criminal Court Cases 737 (S.C.)**

SC **Civil & Criminal liability** - Merely because an act has a civil profile is not sufficient to denude it of its criminal outfit. (*State of Punjab Vs Pritam Chand*) **2010(1) Criminal Court Cases 779 (S.C.)**

Civil case and criminal prosecution - Jurisdiction of civil and criminal Courts is entirely different and distinct from each other - The matter of cheating, misappropriation and removal of documents, falls within the domain of criminal Court and the decision of civil Court, with regard to the genuineness of the Will, would not debar the prosecution to prosecute the accused. (*Ramesh Kumar Vohra Vs State of Haryana*) **2012(3) Criminal Court Cases 785 (P&H)**

SC **Civil cases and Criminal cases** - Standard of proof - Is different - In civil cases it is preponderance of probabilities while in criminal cases it is proof beyond doubt. (*Kishan Singh (D) through L.Rs. Vs Gural Singh*) **2010(4) Criminal Court Cases 170 (S.C.)**

Civil dispute - Matter pending before Arbitrator as per arbitration clause in the agreement - FIR registered for embezzlement and misappropriation of paddy entrusted for shelling cannot be quashed - Both civil and criminal remedies could be pursued in diverse situations. (*Manjit Singh Vs State of Punjab*) **2002(2) Criminal Court Cases 1 (P&H)**

SC **Civil liability** - Right of a co-sharer to enjoy the joint family property is a civil right - Such right when denied by other co-sharers then remedy available is under civil laws.

SC **Art.166** - Directory - Provision of Article 166 is directory and not mandatory - Communication need not be made directly by the authority making the order - Only substantial compliance is sufficient. (*M.Balakrishna Reddy Vs Director, CBI, New Delhi*)
2008(3) Criminal Court Cases 353 (S.C.)

SC **Art.215, Contempt of Courts Act, 1971, Ss.2(1), 15** - Criminal contempt - Contempt proceedings initiated against petitioner on the petition of private respondents for criticizing the order of Court and also making adverse comments against the judge - Written consent of Advocate General not obtained - No prayer in contempt petition to initiate suo moto proceedings - Court did not set the law in motion on its own accord - It was at the instance of private respondents, that the contempt proceedings be initiated - Held, contempt proceedings were initiated not suo moto by court, but by the private respondents and as consent in writing of the Advocate General not obtained, hence proceedings not maintainable. (*Biman Basu Vs Kallol Guha Thakurta*)
2010(4) Criminal Court Cases 433 (S.C.)

SC **Art.226** - CBI enquiry - A Constitutional Court, in exceptional circumstances i.e. when accusation is against a person who by virtue of his post can influence the investigation and it may prejudice the cause of the complainant and complainant makes out a prima face case against the accused, can direct CBI to investigate - Person against whom investigation is sought, is to be impleaded as a party and must be given a reasonable opportunity of being heard - CBI cannot be directed to have a roving inquiry as to whether a person was involved in the alleged unlawful activities. (*State of Punjab Vs Davinder Pal Singh Bhullar & Ors. Etc.*)
2012(1) Criminal Court Cases 437 (S.C.)

SC **Art.226** - CBI investigation - For directing CBI to hold investigation Court must be satisfied that opposite parties are very powerful and influential persons or the State authorities like top police officials are involved and the investigation has not proceeded with in proper direction or it has been biased - In such an eventuality, in order to do complete justice a direction to CBI to investigate the case can be issued. (*Rajender Singh Pathania & Ors. Vs State of N.C.T. of Delhi & Ors.*)
2011(3) Criminal Court Cases 673 (S.C.)

Art.226 - Custodial death - Compensation - Violation of human rights and fundamental rights - Party has right to claim compensation and can resort to Article 226 of the Constitution to enforce its right. (*Parminder Kaur Vs State of Punjab & Ors.*)
2005(3) Criminal Court Cases 728 (P&H)

Art.226 - Custodial death - Police officials convicted u/ss 302, 364 Indian Penal Code, 1860 by Sessions Judge - Litigation pending final adjudication - State directed to pay Rs.Three lacs to widow and children of deceased - State directed to hold an enquiry and recover the amount from Police Officials if death was caused due to specific negligence and/or dereliction in performance of duty, or it was a result of abuse of powers by the officials of the Police Department. (*Parminder Kaur Vs State of Punjab & Ors.*)
2005(3) Criminal Court Cases 728 (P&H)

Art.226 - Habeas Corpus writ - Son of petitioner alleged to be lifted from school & detained illegally - Police denying fact on affidavit - District Judge conducted inquiry pursuant to order by High Court - Fact found not established after recording evidence - High Court does not ordinarily enter into factual controversy while exercising discretionary

Ss.102, 457 & 452, Prevention of Corruption Act, 1988, Ss.13(1)(e), 13(2)- Seizure of Bank Account and FDR's during investigation - Police has power to seize property which includes Bank Account and FDR's - Accused can seek the release of seized property u/s 457 Cr.P.C. (*Naottam Singh Dhillon & Anr. Vs State of Haryana*)

2007(3) Criminal Court Cases 708 (P&H)

FB S.102(2) - 'Report' as in sub-sections (2) and (3) means two authorities mentioned in the two sub-sections and none else. (*Vinodkumar Ramachandran Valluvar Vs State of Maharashtra*)

2011(2) Criminal Court Cases 0522 (Bombay) (FB)

SC Ss.103, 165 - Search and seizure - Evidence obtained under illegal search is not completely excluded unless it has caused serious prejudice to the accused. (*State of M.P. through C.B.I etc. Vs Paltan Mallah & Ors. etc.*)

2005(1) Criminal Court Cases 899 (S.C.)

SC S.104, Passport Act, 1967, S.10(3) - Court can impound any document u/s 104 Cr.P.C. but it cannot impound a passport - Passport can be impounded u/s 10(3) of Passport Act - Passport Act is a special law while Cr.P.C. is general law - It is well settled that special law prevails over general law. (*Suresh Nanda Vs C.B.I.*)

2008(2) Criminal Court Cases 308 (S.C.)

SC Ss.105A, 105B, 105C, 105D, 105E, 105F, 105G, 105I, 105J, 105K, 105L- Property acquired from criminal activities - Attachment and forfeiture of properties - Provisions of Chapter VII-A Cr.P.C. are not applicable to local offence under IPC - Provisions of Chapter VII-A are applicable to offences having international ramifications - This chapter is incorporated with an intention to curb mischief or completely eliminate the terrorist activities and international crimes. (*State of Madhya Pradesh Vs Balram Mihani*)

2010(2) Criminal Court Cases 029 (S.C.)

Ss.105(C), 105(E), Chapter VII A - Attachment or seizure of property - Courts are given power and jurisdiction to monitor and control investigation with regard to properties which might have been derived or obtained directly or indirectly by any person as a result of Criminal activities which includes crimes involving currency transfers. (*Shine Vijayan & Anr. Vs State of Kerala*)

2017(1) Criminal Court Cases 475 (Kerala)

Ss.105(C), 105(E) - Property acquired from criminal activities - Attachment of property - Transaction occurred in a foreign country - However, no request was made by any Court or any competent authority to Central Government requesting for proceeding under the Code - Petitioners purchased the goods in 2010 - Cheques issued in discharge of debt were dishonored later - Property attached were admittedly purchased by petitioners in the year 2005 and 2006 - Those properties cannot be defined as 'property' u/s 105(A)(d) of the Act, as purchase from the proceeds from the crime - Property in question not liable to be seized or attached invoking Chapter VII A Cr.P.C. - Impugned order of attaching property quashed and set aside. (*Shine Vijayan & Anr. Vs State of Kerala*)

2017(1) Criminal Court Cases 475 (Kerala)

S.107 - Proceedings u/s 107 Cr.P.C. - Execution of bond - Held, order requiring execution of bond pending enquiry u/s 107 of the Code can be passed only on recording in writing the reasons which compels the passing of such an order. (*Stanley Vs State of Kerala*)

2013(1) Criminal Court Cases 528 (Kerala)

power conferred u/s 156(3) of Cr.P.C. is exercised, same can not be re-exercised after receiving report from Investigating Agency - In present case, subsequent order given by Magistrate for investigation after lodging FIR by same Investigating Agency which has already submitted report in terms of directions contemplated in law is not in conformity with the provisions of S.156(3) Cr.P.C.. (*Bachhu Lal Sharma & Ors. Vs State of Madhya Pradesh*)
2013(2) Criminal Court Cases 777 (M.P.) (DB)

S.156(3) - Investigation - Public servant - Sanction for prosecution - Requirement of sanction is pre-condition for ordering investigation against a public servant u/s 156(3) Cr.P.C., even at a pre-cognizance stage. (*Lokesh Kumar Dwivedi Vs State of U.P. & Ors.*)
2016(2) Criminal Court Cases 715 (Allahabad)

SC **S.156(3)** - Investigation by CBI - In exercise of power u/s 156(3) Magistrate cannot direct CBI to conduct the investigation. (*Central Bureau of Investigation Vs State of Gujarat*)
2007(3) Criminal Court Cases 838 (S.C.)

S.156(3) - Investigation by police - Complainant has no right or privilege to make a demand to refer the complaint to police for investigation - Option to refer complaint to police for investigation before cognizance or under Section 202(1) after cognizance, is to be exercised by Magistrate in a judicious manner and not mechanically - Prayer in complaint must be to try the accused to punish him in case he is found guilty of any offence - When sole prayer in complaint is to refer the same to police, Magistrate shall approach the matter with care and caution and insist for materials to show a prima facie case. (*Superintendent of Police, C.B.I. Vs State of Kerala*)
2005(4) Criminal Court Cases 128 (Kerala)

S.156(3) - Investigation by police - Magistrate has no power to direct investigation by police u/s 156(3) Cr.P.C. when offence is triable exclusively by Court of Sessions - Magistrate himself has to make inquiry u/s 202 Cr.P.C. (*Nanjiram Vs State of M.P.*)
2008(4) Criminal Court Cases 946 (M.P.)

S.156(3) - Investigation u/s 156(3) - Can be ordered only of a cognizable offence. (*Swati Sachin Mahajan (Pagare) Vs State of Maharashtra*)
2007(4) Criminal Court Cases 258 (Bombay)

SC **S.156(3)** - Investigation u/s 156(3) - Police to register FIR - Even in absence of a direction to register FIR, police is to register FIR, as investigation can be done only after registering an FIR. (*Dilawar Singh Vs State of Delhi*)
2007(4) Criminal Court Cases 001 (S.C.)

SC **S.156(3)** - Magistrate can direct police to register FIR and to ensure a proper investigation and for this purpose he can monitor the investigation to ensure that the investigation is done properly. (*Sakiri Vasu Vs State of U.P. & Ors.*)
2008(1) Criminal Court Cases 001 (S.C.)

S.156(3) - Magistrate forwarded complaint to police for investigation - Magistrate thereafter directed police to add some more offences and directed police to investigate and report - Prerogative of police to investigate kept in tact - There is no impermissible penetration into the domain of investigation - Act of Magistrate cannot be found fault with. (*Aknuri Kankaraj & Ors. Vs State of Telangana rep. by PP & Anr.*)
2016(1) Criminal Court Cases 744 (Hyderabad)

S.156(3) - Magistrate has discretionary power u/s 156(3) Cr.P.C. - Discretion vested

SC **S.202** - Inquiry - The scope of inquiry u/s 202 is extremely limited - Magistrate should see sufficient ground for proceeding with the matter and not sufficient ground for conviction of accused. (*S.K.Sinha, Chief Enforcement Officer Vs Videocon International Ltd.*)
2008(1) Criminal Court Cases 968 (S.C.)

S.202 - Inquiry u/s 202 Cr.P.C. - Magistrate holding enquiry u/s 202 Cr.P.C. cannot call upon accused to participate in such inquiry or pose any question to him or his witnesses - It is only upon conclusion of such enquiry if Magistrate is satisfied on the basis of materials on record that there is sufficient ground to proceed against the accused he shall issue process for his appearance in the case. (*Ramesh Sobti @ Ramesh Sobyi Vs State of West Bengal & Anr.*)
2017(3) Criminal Court Cases 838 (Calcutta)

S.202 - Inquiry u/s 202 Cr.P.C. is mandatory, where accused is residing at a place beyond the area in which Magistrate exercises his jurisdiction - However, said mandate does not mean that Magistrate is bound to examine and conduct an inquiry where facts of the case do not warrant any inquiry. (*Ram Singh Vs Madhuri Singh*)
2017(2) Criminal Court Cases 421 (Delhi)

SC **S.202** - Issuance of process - Where accused is residing at a place beyond the area in which Magistrate exercises his jurisdiction, it is mandatory on the part of Magistrate to conduct an enquiry or investigation before issuing process, so that false complaints are filtered and rejected. (*Abhijit Pawar Vs Hemant Madhukar Nimbalkar & Anr.*)
2017(1) Criminal Court Cases 730 (S.C.)

S.202 - Issue of process - Accused residing beyond the territorial jurisdiction of Court - Court recorded statement of witnesses of complainant in connection with the inquiry - On being satisfied that prima facie case is made out issued summons - Provision of S.202(i) Cr.P.C. satisfied - Accused has no right of hearing at this stage - No error committed by Magistrate. (*Ishaq & Ors. Vs State of U.P. & Ors.*)
2011(4) Criminal Court Cases 0347 (Allahabad)

SC **S.202** - Issue of process - Scope of enquiry u/s 202 Cr.P.C. - In the course of investigation in pursuance of a direction u/s 202 Cr.P.C., police Officer is not entitled to arrest an accused as the only authority of Police is to give report to Magistrate to enable him to decide whether there is sufficient ground to proceed. (*Ramdev Food Products Pvt. Ltd. Vs State of Gujarat*)
2015(2) Criminal Court Cases 735 (S.C.)

SC **S.202** - Issue of process - Scope of enquiry u/s 202 Cr.P.C. is 'extremely limited - Limited only to the ascertainment of the truth or falsehood of the allegations made in the complaint - (i) on the materials placed by the complainant before the Court; (ii) for the limited purpose of finding out whether a prima facie case for issue of process has been made out; and (iii) for deciding the question purely from the point of view of the complainant without at all adverting to any defence that the case may have - Accused has got absolutely no locus standi and is not entitled to be heard on the question whether the process should be issued against him or not. (*Iridium India Telecom Ltd. Vs Motorola Incorporated & Ors.*)
2011(1) Criminal Court Cases 332 (S.C.)

S.202 - Once Magistrate starts enquiring into case himself, he cannot follow next alternative of directing investigation by police. (*Ishwar Singh Vs Baga Ram*)
2007(3) Criminal Court Cases 267 (Rajasthan)

with trial Court to hold that prosecution evidence was not cogent and credible - Acquittal should not have been interfered with - Appeal allowed. (*V.N.Ratheesh Vs State of Kerala*)
2006(3) Criminal Court Cases 631 (S.C.)

SC **S.378** - Appeal against acquittal - Admissible evidence when ignored, a duty is cast upon the appellate Court to re-appreciate the evidence where the accused has been acquitted, for the purpose of ascertaining as to whether any of the accused really committed any offence or not. (*Shashidhar Purandhar Hegde & Anr. Vs State of Karnataka*)
2005(1) Criminal Court Cases 716 (S.C.)

SC **S.378** - Appeal against acquittal - An appellate Court has full power to review, reappreciate and reconsider the evidence upon which order of acquittal is founded - There is no restriction on appellate Court and it can reach its own conclusions both on questions of fact and of law - If two views are possible then High Court would not ordinarily interfere with the judgment of acquittal - Held, that acquittal by trial Court should not be interfered with unless it is totally perverse or wholly unsustainable - If Appellate Court decides to interfere in order of acquittal passed by trial Court it should assign reasons for differing with the decision of trial Court. (*Rangaiah Vs State of Karnataka*)
2009(2) Criminal Court Cases 343 (S.C.)

SC **S.378** - Appeal against acquittal - An appellate Court has full power to review, reappreciate and reconsider the evidence upon which the order of acquittal is founded. (*Murugan Vs State Rep. by Public Prosecutor Mad., Tamil Nadu*)
2009(2) Criminal Court Cases 916 (S.C.)

SC **S.378** - Appeal against acquittal - An order of acquittal should not be lightly interfered with even if the Court believes that there is some evidence pointing out the finger towards the accused. (*State of Rajasthan Vs Naresh*) **2010(1) Criminal Court Cases 639 (S.C.)**

SC **S.378** - Appeal against acquittal - Appeal against - Refusal by non speaking order - Court must give reasons, howsoever, brief, in its order indicating of an application of its mind - Absence of reasons render order not sustainable - Impugned order set aside. (*State of Himachal Pradesh Vs Paras Ram & Ors.*) **2008(3) Criminal Court Cases 272 (S.C.)**

DB **S.378** - Appeal against acquittal - Appellate Court being the final court of fact is fully competent to re-appreciate, reconsider and review the evidence and take its own decision - Law does not prescribe any limitation, restriction or condition on exercise of such power and Appellate Court is free to arrive at its own conclusion keeping in mind that acquittal provides for presumption in favour of accused. (*State of U.P. Vs Reshmani*)
2015(1) Criminal Court Cases 242 (Allahabad) (DB)

SC **S.378** - Appeal against acquittal - Appellate Court can interfere with the order of acquittal only when there are compelling circumstances and the judgment under appeal is found to be perverse. (*S.Ganesan Vs Rama Raghuraman & Ors.*)
2011(1) Criminal Court Cases 468 (S.C.)

SC **S.378** - Appeal against acquittal - Appellate Court can re-appraise the evidence in cases where it feels that the Sessions Court has committed an error in its approach, application of law and also appreciation of evidence on record or when the Court has misread or not

SC S.439 - Bail - Question as regards grant of bail should be considered having regard to the gravity of the offence wherewith the accused had been charged. (*Guria, Swayam Sevi Sansthan Vs State of U.P.*) **2010(1) Criminal Court Cases 029 (S.C.)**

SC S.439 - Bail - Reasons for granting bail must be indicated - However, detailed examination of evidence and elaborate documentation of the merits of the case is not to be undertaken. (*Lokesh Singh Vs State of U.P. & Anr.*) **2008(4) Criminal Court Cases 950 (S.C.)**

SC S.439 - Bail - Reasons not given while granting bail - Order passed mechanically without considering the pros and cons of the matter - While granting bail, particularly in serious cases like murder some reasons justifying the grant of bail are necessary - Order granting bail set aside - Accused to surrender - After surrender of accused, bail application be considered again. (*Brij Nandan Jaiswal Vs Munna @ Munna Jaiswal*) **2010(1) Criminal Court Cases 382 (S.C.)**

S.439 - Bail - Recovery of 1.22 kg. of smack - Accused a habitual offender - Accused doing business of trading of contrabands from one State to another - Bail declined. (*Habibur Sheikh Vs State of Rajasthan*) **2010(3) Criminal Court Cases 379 (Raj.)**

SC S.439 - Bail - Refused by High Court - Supreme Court except in exceptional cases not to interfere with orders granting or refusing bail by High Court because High Court is normally the final arbiter in such matters. (*Himanshu Chandravadan Desai & Ors. Vs State of Gujarat*) **2006(1) Criminal Court Cases 307 (S.C.)**

SC S.439 - Bail - Relaxation of conditions - While granting bail certain conditions were imposed on appellant - Since investigation was complete as such certain conditions relaxed. (*Padma Charan Patra Vs State of Orissa*) **2008(3) Criminal Court Cases 297 (S.C.)**

S.439 - Bail - Release of accused in cross case - Does not ipso facto entitle bail to the applicant - Bail plea of applicant is to be adjudicated on the basis of averments in FIR, his role in the incident, nature and gravity of crime, its impact on public at large, quality of evidence connecting him with the crime and his own antecedents. (*Teetu @ Omveer and Jagannath Vs State of U.P.*) **2012(3) Criminal Court Cases 800 (Allahabad)**

SC S.439 - Bail - Right to bail is not to be denied merely because of sentiments of community against accused. (*Lt.Col.Prasad Shrikant Purohit Vs State of Maharashtra*) **2017(Suppl.) Criminal Court Cases 800 (S.C.)**

S.439 - Bail - Second bail application - Applicant charged for forgery - First bail application rejected on merits - Second application on the ground that charge sheet was filed and report of expert showed that signatures of Executive Engineer were there on the recommendation letter - Mere filing of charge sheet after rejection of first bail application does not amount to a vital change in circumstance - Regarding report of expert it was weighed in light of other evidence - Applicant prima facie involved in the offence - Bail application dismissed. (*Gyanchand Agrawal @ Gyani Vs State of Chhattisgarh*) **2007(2) Criminal Court Cases 673 (Chhattisgarh)**

S.439 - Bail - Second bail application - Murder - Victim shot dead - No evidence against applicant to prove his involvement - No avert act attributed to applicant in commission of crime - Order refusing application for bail on an earlier occasion does not necessarily