

## IMPORTANT DECISIONS

**Abetment of suicide** - Harassment by itself cannot constitute abetment or instigation - Instigation means active stimulus. (Rajasthan) 382

**Abetment of suicide** - Harassment or assault simpliciter cannot amount to abetment. (M.P.) 022

**SC** **Abetment of suicide** - Mere allegation of harassment of deceased is not sufficient unless there be such action on the part of accused which compels the person to commit suicide and such an offending action ought to be proximate to time of occurrence. (S.C.) 616

**SC** **Abetment of suicide** - To attract the ingredients of abetment, intention of accused to aid or instigate or abet deceased to commit suicide is necessary. (S.C.) 328

**Adverse inference** - Non-examination of two material witnesses - Prosecution is guilty of concealing material evidence from Court which is sufficient to draw an adverse inference against prosecution. (Rajasthan) 532

**SC** **Affidavit** - Mere incorrect statement in vakalatnama - Does not amount to creating forged document. (S.C.) 001

**SC** **Anticipatory bail** - Application cannot be rejected merely on the ground that petition u/s 482 Cr.P.C. for quashing of FIR has already been rejected. (S.C.) 305

**Attempt to murder** - Compromise - No injury resulted from the shots which were allegedly fired from licensed pistol - FIR quashed. (P&H) 709

**Attempt to murder** - Compromise - Proceedings quashed. (Allahabad) 250

**Bail** - Cancellation - No complaint of misuse of liberty of bail or interference with due course of justice or tampering with evidence - Application rejected. (Allahabad) 375

**Bail** - Grant or refusal of bail on economic conditions violates Arts.14 and 15 of Constitution. (Kerala) 840

**Bail** - Gravity alone not a decisive ground to deny bail - Competing factors are required to be balanced by Court while exercising its discretion. (H.P.) 668

**SC** **Bail** - New offences added thereafter - It is not necessary that in all cases earlier bail should be cancelled by Court before granting permission to arrest an accused on basis of new offences. (S.C.) 711

**Bigamy** - Second marriage during subsistence of first marriage - Wife got married with one person before second marriage of husband - If second marriage of husband is an offence, same principle will equally apply to wife also - Proceedings liable to be quashed. (Madras) 786

**Cheating** - Introducing a person to bank to open an account, without anything more - Does not attract the offence of cheating when person introduced by him subsequently commits an act of cheating. (Kerala) 193

**Civil remedy** - Available and adopted - There can be no hesitation to quash criminal proceedings. (Kerala) 057

**SC** **Cognizance of offence** - Issuance of summons - Case based on police report - Magistrate not required to record any reasons at the stage of issuing summons to accused. (S.C.) 287

**Complaint u/s 156(3) Cr.P.C.** - Petitioner is a physically disabled person - Merely on this basis she cannot insist that complaint by her be forwarded to police for investigation. (Kerala) 402

**SC** **Compromise** - Non-compoundable offence - Where dispute between parties predominantly or overwhelming seems to be of a civil nature and dispute is a private one between two private parties, even though offences alleged are non-compoundable, offences can be compounded. (S.C.) 528

**Contraband** - Case property not preserved properly - Appellants are entitled to benefit of doubt. (Delhi) 279

**SC** **Contraband** - Failure to relate seized sample with that seized from the accused - Accused acquitted. (S.C.) 761

**Contraband** - Simultaneous search of accused and bags in his possession - S.50 of NDPS Act applies. (Delhi) 654

**Contraband** - Accused declined offer u/s 50 of the Act - Raiding team is nevertheless required to have the search of accused conducted in the presence of a Gazetted Officer or Magistrate. (Delhi) 654

**Contraband** - Cases under NDPS Act - Accused get bail and ultimately also earn acquittal due to faulty investigation - Guidelines issued. (P&H) 574

**Contraband** - Chance recovery - S.50 of NDPS Act not required to be complied with. (P&H) 769

**Contraband** - Constable who searched accused not examined - Benefit of doubt given to accused. (P&H) 231

**Contraband** - Contradictory statement of witnesses as to use of electronic or manual scale - Accused acquitted. (Allahabad) 318

**Conviction not possible** - It is always advisable to terminate the proceedings. (Allahabad) 183

**Criminal breach of trust** - Agreement to sell - Property belongs to accused hence there is no entrustment of property - Suit for specific performance filed as such retention of money does not amount to conversion or misappropriation - FIR quashed. (Allahabad) 592

**Criminal trial** - Religion of accused - Not to be mentioned in enquiry, investigation or trial. (P&H) 346

**SC** **Criminal trial** - Benefit of doubt must follow unless prosecution is able to prove its case beyond all reasonable doubt. (S.C.) 582

**SC** **Criminal trial** - Factum of an earlier conviction may be relevant for the purpose of sentence but cannot be a ground for conviction per se. (S.C.) 761

**SC** **Criminal trial** - If there are materials which prosecution is unable to answer, weakness in the defence taken cannot become the strength of prosecution to claim that in the circumstances it was not required to prove anything. (S.C.) 582

**Criminal trial** - Medical evidence - Doctor who examined first found deceased conscious - Doctor who gave further treatment found deceased semi-conscious - Evidence of doctor who first examined cannot be discarded. (Madras) 605

**Cross-examination** - Right to cross examine - Cannot be closed merely on the ground of asking irrelevant questions. (H.P.) 071

**SC** **Cruelty** - Harassment of a woman by unlawful demand of dowry also partakes the character of 'Cruelty'. (S.C.) 328

**Defamation** - Magistrate cannot order registration of case u/s 156(3) Cr.P.C. (Meghalaya) 853

**Default bail** - Cannot be denied on the ground that earlier bail was granted on merits with conditions and for non compliance of conditions accused was not able to come out on bail. (Madras) 445

**Default bail** - Charge sheet filed on 90th day - Returned to be filed before Special Court - Charge sheet filed before Special Court and same was returned as it was incomplete - Petitioner is entitled to grant of default bail. (Rajasthan) 487

**Default bail** - Onerous conditions not to be imposed - Order to deposit cash security will indirectly defeat the indefeasible right from coming out on bail - Gravity of offence is not the relevant consideration for grant of statutory bail - If accused has its roots in the community and is not likely to abscond then accused be released on bail on reasonable conditions. (Mad.) 445

**SC** **Discharge** - Court must proceed on assumption that material brought on record by prosecution is true and evaluate the material in order to determine whether facts emerging from material taken on its face value, disclose existence of ingredients necessary to constitute the offence. (S.C.) 426

**SC** **Discharge** - Court to exercise its judicial mind to determine whether a case for trial has been made out or not - Court not to hold mini trial by marshalling evidence. (S.C.) 207

**Dishonour of cheque** - Acceptance of liability - Accused prayed that his salary be attached and deposited in Court - Order accordingly. (Rajasthan) 468

**SC** **Dishonour of cheque** - Acquittal - Order rightly reversed as presumption was not taken into consideration and heavy burden was placed on complainant to prove debt. (S.C.) 353

**SC** **Dishonour of cheque** - Amendment of provision of S.148 by Act 20 of 2018 coming into force on 01.09.2018 - Such amended provision is applicable to a complaint u/s 138 of the Act filed even prior to coming into force of the amended provision. (S.C.) 185

**SC** **Dishonour of cheque** - Appeal against acquittal - Non-appearance of accused - Appeal not to be decided on merits without issuing second notice or appointment of an Advocate by High Court Legal Services Committee or amicus curiae. (S.C.) 766

**Dishonour of cheque** - Cheque issued in Kerala and presented for encashment at Bangalore where complainant had its office - Complaint filed at Gurgaon - Complainant filed at Gurgaon just to harass and putting undue pressure upon accused - Complaint ordered to be returned for presentation in appropriate Court. (P&H) 749

**Dishonour of cheque** - Cheque issued towards share of profit of joint business - No proof of business or accrual of profit - Accused acquitted. (Rajasthan) 242

**Dishonour of cheque** - Delay - Application u/s 5 Limitation Act filed instead of filing an application u/s 142 of the NI Act - Complaint cannot be dismissed as barred by limitation. (Allahabad) 673

**Dishonour of cheque** - Handwriting expert to prove that cheque does not bear signature of accused and that contents of cheque have not been filled by him - Allowed. Application allowed. (Rajasthan) 633

**SC** **Dishonour of cheque** - Issuance of cheque for purchase made on credit - Not pleaded - However, stated in evidence - Courts below erred in not raising statutory presumption. (S.C.) 833

**Dishonour of cheque** - Law as to : (i) Accused did not deny his signatures on cheque in question and that same pertains to his bank account - Court bound to draw presumption in favour of complainant; (ii) Computer generated invoice - Does not bear the signatures of the author; (iii) To prove legally enforceable debt there is no requirement of law to produce income tax or sales tax returns; (iv) Plea that cheque was issued in good faith - Not believable and is improbable in view of the fact that no one would issue a signed cheque in favour of another person, unless and until there is some transaction. (P&H) 634

**Dishonour of cheque** - Notice signed by complainant but without signatures of issuing Advocate - Finding that notice is bad in law, set aside. (Tripura) 434

**SC** **Dishonour of cheque** - Notice - Demand of loan amount - Not fatal when loan amount and cheque amount are same. (S.C.) 027

**Dishonour of cheque** - Notice - Not replied - It automatically means that accused admitted his liability and he did not chose to contest the legal notice. (P&H) 273

**Dishonour of cheque** - Omission or error in mentioning nature of debt or liability in notice - Does not render notice invalid. (Kerala) 386

**SC** **Dishonour of cheque** - Plea that payment made but blank cheques not returned - Quite unbelievable and unacceptable. (S.C.) 833

**Dishonour of cheque** - Presumption - Unrebutted plea that cheque was issued to discharge liability or that it was issued towards legally recoverable debt has to be believed - Accused convicted. (P&H) 392

**SC** **Dishonour of cheque** - Provision of S.143-A is prospective in nature - Interim compensation can be ordered to be paid if offence was committed after introduction of said provision. (S.C.) 586

**Dishonour of cheque** - Quashing of summoning order on the basis of some technical defect is clear cut abuse of the process of law - Petition dismissed. (P&H) 273

**Dishonour of cheque** - Signatures admitted - Statutory presumption is available that it is issued in discharge of legally enforceable debt or liability - This presumption is rebuttable. (H.P.) 754

**Domestic Violence Interim maintenance** - Jurisdiction - Material adduced on record by husband not looked into - Wife served in the present case at a address in a different district - Impugned order granting interim maintenance set aside and matter remitted for decision of issue of jurisdiction afresh. (H.P.) 245

**SC** **Domestic violence** - Mere passing of an order u/s 125 Cr.P.C does not preclude respondent from seeking appropriate reliefs under Domestic Violence Act.(S.C.) 697

**Domestic Violence** - Proceedings u/s 12 or S.23(2) of the Act - Evidence by way of affidavit - Court can allow evidence on affidavit. (Kerala) 521

**Domestic Violence** - Interim maintenance - Normally to be awarded from date of application. (Delhi) 526

**Domestic Violence** - Interim order of maintenance - Revision thereagainst is maintainable. (Rajasthan) 227

**Dowry death** - Deceased admitted to hospital but died next day - No effort made to take her dying declaration - Doctor who treated deceased at Mussoorie, Dehradun and Delhi not examined - At the time of marriage there was no demand of dowry - Acquittal calls for no interference. (Uttarakhand) 568

**SC** **Dying declaration** - It may not be invalid solely on the ground that it was not certified by doctor. (S.C.) 180

**Examination of accused u/s 313 Cr.P.C.** - Advance copy of questionnaire can be supplied only in exceptional circumstances. (Delhi) 596

**SC** **Extra-judicial confession** - Recorded by PW8 after 40 days of incident - PW8 not a relative of deceased nor relative of accused - Extra-judicial confession of accused is recorded as if it is a statement recorded u/s 161 Cr.P.C. - Extra judicial confession in all probability might have been made by accused. (S.C.) 238

**Further investigation** - Case committed to Sessions Court - Sessions Court can exercise power u/s 173(8) Cr.P.C. (Karnataka) 641

**SC** **Hearing on sentence** - Procedural irregularity - Violation can be remedied by appellate Court. (S.C.) 797

**Identification** - A neighbour known previously - Can be identified even in dim light. (Allahabad) 172

**Investigation undertaken for non-cognizance offence and charge sheet filed under non-cognizance offences only** - Charge sheet to be treated as a complaint. (Allahabad) 664Magistrate has no power to direct police to file complete challan. (P&H) 695

**Maintenance to minor child** - Earning mother - Mother should contribute towards the expenses of the child but expenses cannot be divided equally between the two. (Delhi) 131

**Maintenance** - Major unmarried daughter is entitled to claim maintenance from father. (Madras) 847

**Matrimonial dispute** - Compromise - Nothing to indicate lack of bona fide - Proceedings quashed. (Delhi) 156

**SC** **Permission to aggrieved party to conduct prosecution** - Permission can be granted on considering as to whether victim is in a position to assist Court and as to whether trial does not involve such complexities which cannot be handled by the victim. (S.C.) 703

**POCO** - Act of forcibly kissing and hugging minor victim, below 12 years of age in the absence of her guardian by a 27 years old male - Cannot but be with sexual intent. (Sikkim) 218

**Proceedings quashed on the basis of consent of wife which was obtained on false promise** - Order quashing proceedings recalled. (Kerala) 661

**Quashing of FIR** - Compromise - Offence u/ss 307, 458, 323, 143 IPC and S.3(2)(V) SC/ST Act - Medical opinion that three injuries were not dangerous to life

- I.O. found offence u/s 308 IPC - Compromise allowed - FIR quashed.  
(Rajasthan) 306

**Rape** - Accused marrying complainant - Proceedings quashed. (Kerala) 635

**Rape** - Promise of marriage - Physical relations maintained even after knowing that accused is not in a position to marry her - Consent for sex was not thus granted due to false promise of marriage.  
(M.P.) 455

**Release of seized vehicle carrying 39 Kg. 300 gms poppy husk** - Conditional release of vehicle cannot be denied.  
(Rajasthan) 815

**SC Sanction for prosecution** - Bank Manager of a nationalized bank - Not removable by or save with the sanction of Government - Not covered u/s 197 Cr.P.C. (S.C.) 115

**SC Sanction for prosecution** - Employees of public sector corporations are not entitled to protection u/s 197 Cr.P.C as 'public servant'.  
(S.C.) 822

**SC Sudden and grave provocation** - Deceased called accused No.1 and her daughter as prostitutes - Incident result of a sudden and grave provocation - Case falls u/s 304 Part I IPC.  
(S.C.) 238

**SC Suspension of execution of sentence during pendency of appeal** - Prayer cannot be declined by applying principles applicable to suspension of operation of order of conviction.  
(S.C.) 394

**SC Test Identification Parade** - Dummies resembling accused has to be selected by Special Executive Magistrate - However, dummy persons were selected by police - It is not safe to convict accused solely on basis of identification by PW1 and PW8 in TIP and/or before Court.  
(S.C.) 491

**Unnatural conduct of close relatives** - Son and son-in-law were mute spectators rather than intervening and trying to save the deceased - This unnatural conduct of witnesses makes their testimony doubtful.  
(Rajasthan) 354

**SC Victim** - Deceased was unmarried and victim is real brother, thus, would fall under category of legal heirs of deceased, as victim includes him or her guardians or legal heirs.  
(S.C.) 863

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