

Judiciary Digest

Current & Conceptual Weekly

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1. Supreme Court Grants Bail to AAP Leader Sanjay Singh in Money Laundering Case

In a significant development, the Supreme Court granted bail to Aam Aadmi Party (AAP) leader and Rajya Sabha MP, Sanjay Singh, in a money laundering case related to the Delhi liquor policy. The decision came after the Directorate of Enforcement (ED) conceded to his release during the court proceedings.

The bench comprising Justices Sanjiv Khanna, Dipankar Datta, and PB Varale ordered Singh's release, clarifying that the decision does not imply any judgement on the merits of the case. Notably, the court remarked that Singh would be allowed to engage in political activities while on bail.

Singh's lawyer agreed to refrain from making any public statements regarding the case, highlighting the procedural aspect of the bail grant.

During the proceedings, Senior Advocate Dr. Abhishek Manu Singhvi, representing Singh, underscored that the ED's case against his client heavily relied on the statements of an approver-turned-witness, Dinesh Arora. Singhvi argued that Arora initially made nine exculpatory statements before eventually implicating Singh, casting doubt on the credibility of the accusations.

Singhvi raised concerns about the necessity of Singh's arrest and criticised the ED's conduct, alleging a vendetta against Singh after he held a press conference. He urged the court to intervene and address what he termed as a "travesty of justice."

The bench, led by Justice Khanna, posed pertinent questions regarding the legal implications of the case under the Prevention of Money Laundering Act (PMLA). They sought clarification on whether the alleged amount involved in the case constituted part of the predicate offence, emphasising the importance of tracing proceeds of crime.

Following Singhvi's arguments and considering ED's concession, the court directed Singh's release on bail during the pendency of the proceedings, subject to terms and conditions set by the trial court. The bench clarified that the ED's concession should not set a precedent for future cases.

Background information revealed that Singh was arrested by the ED in October 2023, following searches at his residence in Delhi. The case revolves around allegations of receiving Rs. 2 crores on two occasions from a businessman, Dinesh Arora, an accusation Arora made after turning approver in the case.

2. Civil Court Findings Binding on Criminal Court for Limited Purposes

In *PREM RAJ v. POONAMMA MENON & ANR.*, the Supreme Court clarified the relationship between civil and criminal proceedings, asserting that a judgement of a civil court can influence the sentencing or damages awarded by a criminal court. The judgement, authored by Justice Sanjay Karol, set aside a conviction in a criminal case for cheque dishonour under Section 138 of the Negotiable Instruments Act, based on a finding in a civil suit between the same parties.

While civil court judgments are not automatically binding on criminal courts, the Supreme Court underscored that certain aspects, such as sentencing and damages, may be influenced by the findings of the civil court. Citing the precedent set in the case of *K.G. Premshanker vs. Inspector of Police & Anr.*, the court emphasised that decisions on sentence and damages are excluded from the conflict between civil and criminal jurisdictions.

The case stemmed from conflicting judgments in civil and criminal proceedings. The appellant faced criminal charges for cheque dishonour, while simultaneously initiating civil proceedings to restrain the respondent from encashing the cheque in question. The appellant was convicted by the trial court and the conviction was upheld by the High Court.

However, the Supreme Court overturned the conviction, highlighting that the law does not mandate mutual binding between civil and criminal proceedings. Rather, the decision of the civil court is considered binding on the criminal court only for limited purposes, such as sentencing or damages. The court relied on the Constitution Bench judgement of *Iqbal Singh Marwah vs. Meenakshi Marwah*, which endorsed the principle that findings in one proceeding may not necessarily be final or binding in the other.

Based on this principle, the Supreme Court ruled that the restraint imposed by the civil court on encashing the cheque rendered the criminal proceedings unsustainable. Consequently, the conviction in the criminal case was set aside, and the damages imposed by the trial court were directed to be returned to the appellant.

This ruling clarifies the interplay between civil and criminal proceedings, ensuring that each case is decided based on its own evidence and merits. It sets a precedent for future cases where

conflicting judgments arise between civil and criminal courts, providing clarity on the limited circumstances under which civil court findings may influence criminal proceedings.

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3. Time Spent in Bonafide Litigation Excluded

In a significant ruling, the Supreme Court has clarified the application of Section 14(2) of the Limitation Act, emphasising that time spent by a litigant in contesting genuine litigation at a wrong forum should be excluded when computing the period of limitation. The judgement, authored by Justice Sanjay Karol and Justice Aravind Kumar, sets a precedent ensuring fairness and justice in legal proceedings.

The case, titled *Purni Devi & Anr. v. Babu Ram & Anr.*, involved the rejection of an execution application seeking enforcement of a decree by the trial court under Section 182 of the Jammu and Kashmir Limitation Act. The trial court dismissed the application citing it as time-barred, as the appellant had spent significant time contesting the litigation at a forum lacking jurisdiction.



The Supreme Court reversed the findings of the trial court and the High Court, holding that Section 14(2) of the Limitation Act provides an exception for excluding the period of limitation when proceedings are pursued diligently and in good faith at a court lacking jurisdiction. The judgement endorsed the principle laid down in the case of *Sesh Nath Singh v. Baidyabati Sheoraphuli Coop. Bank Ltd.*, emphasising the need for a holistic interpretation of Section 14.

The Court outlined five conditions that must be satisfied for invoking Section 14, including the prosecution of prior and subsequent proceedings by the same party, due diligence and good faith in the prior proceeding, failure due to defect of jurisdiction, relevance of both proceedings to the same matter, and their occurrence in a court.

In the present case, the Court observed that all conditions for invoking Section 14 were met, as the appellant had pursued the matter in good faith before what it believed to be the appropriate forum. Therefore, the time spent in contesting the application at the wrong forum was excluded from the computation of limitation.

The Court emphasised that Section 14 of the Limitation Act serves to advance the cause of justice and must be interpreted accordingly. It rejected the reasoning of the High Court, noting that the appellant had pursued the matter diligently and in good faith. Consequently, the execution application was deemed to be within the limitation period prescribed by law.

As a result of the ruling, the appeal was allowed, and the execution application was restored for fresh consideration by the trial court. The judgement reaffirms the principles of fairness and equity in legal proceedings, ensuring that genuine efforts by litigants are not penalised due to procedural technicalities.



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4. Old vs New: Specimen Collection

The provisions from the old Criminal Procedure Code (CrPC) and the new Bharatiya Nyaya Sanhita (BNSS) both pertain to the power of a Magistrate of the first class to order a person to provide specimens for the purpose of an investigation or proceeding. However, there are notable differences in the scope and conditions under which these orders can be made:

Scope of Specimens: The old CrPC provision (Section 311A) limits the type of specimens that can be ordered to signatures and handwriting. In contrast, the new BNSS provision (Section 349) expands this scope significantly to include not only signatures and handwriting but also finger impressions and voice samples. This broadening of scope reflects an adaptation to modern investigative needs and technologies, providing more tools for accurate identification and evidence gathering.

Conditions for Ordering Specimens: Both provisions require that the person from whom specimens are to be collected must have been arrested at some point in connection with the

investigation or proceeding. However, the BNSS introduces an additional flexibility where the Magistrate has the authority to order any person to give specimens without the requirement of being arrested. This is contingent on the Magistrate recording the reasons for such an order in writing. This additional provision potentially speeds up the process of evidence collection and makes it more adaptable to the needs of an investigation, albeit with a safeguard of documented justification to prevent abuse.

5. Past Exam Highlights: Prelims and Mains

Prelims

1. Which one of the following statements is not true? According to Section 5 of the Evidence Act, evidence may be given in any suit or proceeding of the
- existence of every fact in issue
 - non existence of every fact in issue
 - those facts declared relevant under the various provisions of the Evidence Act
 - those facts which the parties think are relevant

Ans. (d)

Explanation: Under section 5, evidence can only be given regarding facts in issue, facts relevant as per the Act, and facts directly connected to those already deemed relevant. The parties' personal beliefs or opinions on what is relevant do not influence what can be admitted as evidence in court.

2. Section 6 of the Indian Evidence Act deals with
- Relevancy of fact forming part of same transaction
 - Admission
 - Opinion of expert
 - Conclusive proof

Ans. (a)

Explanation: Section 6 of the Indian Evidence Act is concerned with the principle known as "res gestae," which means facts that are so closely connected to the fact in issue that they form part of the same

transaction. These facts are considered relevant if they occurred at the same time and place as the fact in issue, or are part of a series of events which constitute the transaction.

3. Which one of the following statements is correct? In a trial of 'A' for the murderer of 'B' marks on the ground produced by a struggle at or near the place of murder is a fact

- Formatting part of the same transaction
- Necessary to explain or introduce relevant fact
- Showing existence of state of mind or of body
- As to the occasion, cause or effect of facts in issue.

Ans. (d)

Explanation: The correct answer is (d) "As to the occasion, cause or effect of facts in issue." In this context, the marks on the ground resulting from a struggle at or near the murder scene are relevant as they provide insight into the circumstances surrounding the murder of 'B' by 'A'. These marks can help establish the occasion or cause of the murder, possibly indicating a struggle before the act occurred, thus serving as crucial evidence in understanding how and why the incident unfolded.

4. Under which one of the following sections of the Evidence Act the previous conviction of a person is relevant

- a. Explanation I to Section 14
- b. Explanation II to Section 14
- c. Explanation III to Section 14
- d. Explanation IV to Section 14

Ans. (b)

Explanation: Section 14 allows for the admissibility of previous convictions when they are relevant to proving a fact in issue or relevant fact in the current proceedings. For example, a previous conviction can show the character or propensity of a person regarding a specific kind of conduct, thus influencing the credibility or the likelihood of involvement in the current case.

5. As per Section 27 of Cr. P.C., a juvenile is taken as a person under the age of:—

- a. 14 years
- b. 16 years
- c. 18 years
- d. None of the above

Ans. (c)

Explanation: As per Section 27 of the Juvenile Justice (Care and Protection of Children) Act, 2015, a juvenile or child is defined as a person who is under the age of 18 years. This definition aligns with international standards and recognizes anyone below 18 as a child.

6. The court of a Metropolitan Magistrate shall have the powers of the court of

- a. A Chief Judicial Magistrate
- b. A Judicial Magistrate of the first class
- c. Judicial Magistrate of the second class
- d. None of these

Ans. (b)

Explanation: According to the Criminal Procedure Code (Cr.P.C.), the courts of Metropolitan Magistrates and Judicial

Magistrates of the first class are generally considered equivalent in terms of their powers and functions. These magistrates handle similar types of cases and have similar authority within their respective jurisdictions. Metropolitan Magistrates typically operate in metropolitan areas, whereas Judicial Magistrates of the first class function in non-metropolitan areas, both handling preliminary hearings, bail, remand, and other judicial proceedings.

7. What is the difference between consecutive and concurrent sentences?

- a. When the sentence is suffered by the convict one after the other, it is said to be consecutive sentence; while if the sentences are suffered together, i.e., the lesser sentence merging with the greater sentence, it is known as concurrent sentence
- b. When the sentence is served together, it is known as consecutive sentence; while if the period of sentence is undergone, it is concurrent sentence
- c. In consecutive sentence, there should be more than one accused while in concurrent sentence, there should be only a single convict
- d. In case of several convicts, the court may order consecutive sentence on few convicts and concurrent sentence on others

Ans. (a)

Explanation: This distinction involves how multiple sentences imposed on a convict are served. In consecutive sentences, each sentence is served one after the other, extending the total time the convict spends in prison. For example, if a person is sentenced to two years for one crime and three years for another, and the sentences are consecutive, they will serve a total of five years. In

contrast, concurrent sentences are served at the same time. Using the same example, if the sentences are concurrent, the person would serve only three years—the duration of the longer sentence—effectively merging the two.

8. Under Civil Procedure Code, which of the following statements are true regarding a decree?

- a. Conclusively determines the rights of parties with regard to all or any of the matters in controversy in the suit
- b. Decree can be partly preliminary and partly final
- c. This would not include any adjudication from which an appeal lies as an appeal from an order
- d. All of them

Ans. (d)

Explanation: Under Section 2(2) of the Civil Procedure Code, a decree conclusively determines the rights of parties concerning matters in dispute and can be either entirely final or partially preliminary. It does not include any adjudication appealable as an order, distinguishing decrees from mere orders.

9. Mesne profits as defined under section 2(12) Code of Civil Procedure means those profits which the person in wrongful possession of

- a. Such property actually received or might have received together with interest.
- b. Property actually received including profits due to improvements made by such person.
- c. Such property actually received or might have received but without any interest on such profits.
- d. Such property actually received.

Ans. (a)

Explanation: According to Section 2(12) of the Code of Civil Procedure, mesne profits refer to those profits which a person in wrongful possession of the property might have received from the property, in addition to what was actually received, and this includes interest.

10. The doctrine of res judicata is based on maxims:

- a. Nemo debet bis vexari pro una et eadem causa (No man should be vexed twice for the same cause)
- b. Interest reipublicae ut sit finis litium (It is in the interest of state that there should be an end to the litigation)
- c. Res judicata pro veritate accipitur (a judicial decision must be accepted as correct)
- d. All of the above

Ans. (d)

Explanation: The doctrine of res judicata, as defined under Section 11 of the Code of Civil Procedure, rests on several legal maxims that underscore the importance of finality in legal proceedings. These maxims are:

Nemo debet bis vexari pro una et eadem causa: This translates to "No man should be vexed twice for the same cause," emphasizing that a matter that has been conclusively decided should not be relitigated.

Interest reipublicae ut sit finis litium: This means "It is in the interest of the state that there should be an end to litigation," highlighting the public interest in preventing perpetual litigation over the same issues.

Res judicata pro veritate accipitur: This means "A judicial decision must be accepted as correct," affirming the authority and finality of judicial decisions.

Mains

Q.: Does the Transfer of Property Act make an exception to the general rule that a person cannot confer a better title to the property than he himself has in it? If so, how do you justify the exceptions?

The Transfer of Property Act introduces a significant exception to the general principle that a person cannot transfer a better title to property than they possess themselves. This exception is encapsulated in Section 43, often referred to as "feeding the grant by estoppel," which is grounded in the principle of estoppel.

Section 43 provides a legal safeguard for bona fide transferees who, in good faith, rely on a fraudulent or mistaken representation made by the transferor regarding their authority to transfer certain immovable property.

The section outlines the conditions under which a transfer, made by a person who falsely represents their authority to transfer immovable property, becomes valid. Key elements include:

- 1. Fraudulent or Erroneous Representation:** The transferor must fraudulently or mistakenly represent that they have the authority to transfer a specific immovable property.
- 2. Transfer for Consideration:** The transferor must purport to transfer the property for consideration, indicating a commercial aspect to the transaction.
- 3. Option of the Transferee:** The transferee has the option to enforce the transfer on any interest that the transferor may subsequently acquire in the property during the transfer contract's duration.
- 4. Good Faith of Transferees:** Section 43 explicitly protects the rights of transferees who act in good faith and provide consideration without knowledge of the option conferred by the section.

These exceptions carved out by Section 43 find justification in both common law principles and equitable doctrines. Two fundamental principles underlying the section's rationale are:

- 1. Common Law Doctrine of Estoppel by Deed:** This doctrine suggests that if a person, without actual title, purports to grant an interest in land and later acquires the title, the benefit of this subsequent acquisition automatically extends to the earlier grantee. The concept is encapsulated in the legal maxim "feeding the estoppel."
- 2. Equitable Principle of Performance of Promise:** Section 43 aligns with the equitable principle that if a person promises more than they can perform at the time of the promise, they must fulfil the promise once they acquire the ability to do so. This ensures that a person who initially represents an interest in land they do not possess fulfils that representation upon acquiring the property.

6. Clear Concepts: Framing of Charge

The process of framing a charge in a criminal trial serves as the foundational step to inform the accused of the specific allegations they must address during the proceedings. This is clearly outlined in Section 211 of the Code of Criminal Procedure, which details the requirements for a properly framed charge:

- **Specification of the Offence:** Each charge must clearly state the offence for which the accused is being charged. This includes citing the specific section of the law violated.
- **Naming the Offence:** If the offence has a specific name under the law, it can be referred to by this name alone in the charge.
- **Defining Unnamed Offences:** If the offence does not have a specific name, enough of its legal definition must be provided to ensure the accused understands the nature of the charges.
- **Legal References:** The charge must include references to the specific laws and sections of the law that the accused is alleged to have violated.
- **Implicit Legal Conditions:** By framing a charge, it is implied that all legal conditions necessary to constitute the offence are believed to have been met in the particular case.
- **Language of the Charge:** The charge should be written in the language used by the court.
- **Previous Convictions:** If the accused has prior convictions that could lead to enhanced punishment or different treatment for the current charge, these must be explicitly stated. The court has the flexibility to amend the charge to include such details at any point before sentencing.

The jurisprudence guiding the framing of charges stipulates that a trial judge may evaluate evidence to determine whether a prima facie case exists against the accused. This evaluation is for the limited purpose of deciding on the charge and does not involve assessing the credibility or full merits of the evidence. A charge should be framed if there is a strong suspicion based on available evidence, thus allowing the trial to proceed and the complete evidence to be presented. This stage does not require proving the sufficiency of evidence but merely its presence, unless the evidence is found to be utterly absent, which would negate the basis for proceeding with a trial.