

# Judiciary Digest

Current & Conceptual Weekly

8th - 14th April, 2024

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## 1. Motive Irrelevant with Direct Evidence

In *CHANDAN v. THE STATE (DELHI ADMN.)* that has reverberated through legal circles, the Supreme Court of India reaffirmed the primacy of direct evidence in criminal trials, particularly in cases of heinous crimes like murder. The case in question involved the conviction of an accused for committing a brutal daylight murder. What sets this judgement apart is the court's nuanced understanding of the role of motive in such cases and its assertion that when direct ocular evidence is compelling, the motive behind the crime becomes inconsequential.

The bench, comprising Justices Sudhanshu Dhulia and PB Varale, meticulously examined the evidence presented before them. Central to their decision was the eyewitness testimony provided by a key witness, referred to as PW-2 in legal parlance. This eyewitness vividly recounted the sequence of events leading to the murder, providing a detailed account of how the accused perpetrated the crime in broad daylight. The testimony not only described the act itself but also highlighted the swift and ruthless manner in which it was executed.

Crucially, the court emphasised that the absence of a discernible motive on the part of the accused did not detract from the credibility of the eyewitness account. Drawing upon established legal precedents, notably the case of *Shivaji Genu Mohite v. State of Maharashtra*, the court underscored that while motive may be crucial in cases relying on circumstantial evidence, its significance diminishes when direct eyewitness testimony is available. This reaffirmation of legal principles underscores the court's commitment to ensuring justice based on the weight of evidence rather than speculative motives.

Further bolstering the prosecution's case was forensic evidence linking the accused to the crime scene. A blood-stained knife recovered from the accused was subjected to forensic analysis, revealing a match with the blood of the deceased. This scientific corroboration, coupled with the eyewitness testimony, painted a damning picture of the accused's culpability.

The court's decision to uphold the conviction rested on the convergence of multiple factors. The matching blood on the knife, the credible eyewitness testimony, and the swift sequence of events leading to the arrest of the accused collectively formed a compelling narrative of guilt. The court meticulously dissected each piece of evidence, highlighting its significance in establishing the accused's guilt beyond a reasonable doubt.

In delivering their judgement, the justices exhibited a judicious balance between legal precedent and the exigencies of the case at hand. By prioritising direct evidence over speculative motives, the court reaffirmed its commitment to dispensing justice based on the principles of fairness and equity. The verdict serves as a beacon for future cases, reiterating the importance of direct evidence in criminal proceedings and underscoring the need for a robust legal framework that upholds the sanctity of justice.

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## 2. Delay Condonation: Balancing Substantial Justice and Legal Principles

In a significant ruling delivered on April 8th, the Supreme Court meticulously delineated eight guiding principles while interpreting Sections 3 and 5 of the Limitation Act, 1963, in the case of *Pathapati Subba Reddy (Died) by LRs and Ors vs. Special Deputy Collector (LA)*. Justices Bela M Trivedi and Pankaj Mithal, comprising the bench, elucidated on the delicate balance between the need for finality in legal proceedings and the pursuit of substantial justice.

The court underscored that the overarching principle of limitation is rooted in public policy, aiming to prevent endless litigation by prescribing a fixed timeframe within which legal remedies must be pursued. It reiterated that rights or remedies not availed for an extended period must lapse, adhering to the fundamental tenets of justice and fairness.

A key highlight of the judgement was the delineation of differing interpretations for Sections 3 and 5 of the Limitation Act. While Section 3 necessitates a strict construction, Section 5 warrants a liberal interpretation, allowing courts to condone delays in filing appeals if sufficient cause is demonstrated. However, the court cautioned against abusing this discretionary power to circumvent the statutory provisions of limitation.

The ruling emphasised that the discretion to condone delay is not absolute and must be exercised judiciously. Factors such as inordinate delay, negligence, and lack of due diligence on the part of the litigant are pivotal in determining the merits of delay condonation applications. The court stressed that mere acceptance of a reference's decision or failure to pursue procedural remedies reflects adversely on the diligence of the litigant.

In the case at hand, the court rejected the appellants' plea for condonation of delay, citing their negligence and lack of due diligence in pursuing the matter. Despite the appellants' assertion of 'sufficient cause', the court deemed their conduct unacceptable, especially considering the lapse of 5659 days in preferring the appeal.

The verdict serves as a clarion call for litigants to exercise diligence and vigilance in pursuing legal remedies. It reaffirms the judiciary's commitment to upholding the rule of law while ensuring the equitable administration of justice. By delineating clear principles for delay condonation, the Supreme Court has provided a roadmap for balancing the imperatives of legal finality and the pursuit of substantive justice.

### **3. Family Testimonies in Dowry Death Cases**

In a significant verdict, the Supreme Court of India recently underscored the crucial role of testimonies from family members of the deceased in dowry death cases. The case, titled *State of Karnataka vs MN Basavaraja and others*, centred on the conviction of a husband for the alleged dowry death of his wife. The Court's ruling, delivered amidst a backdrop of judicial scrutiny, reflects a nuanced understanding of the complexities surrounding such cases.

Central to the Court's decision was the recognition of family members as key witnesses in dowry death cases. The Court aptly noted that individuals facing harassment due to dowry demands often confide in their immediate family members. Dismissing their testimonies on the basis of bias would undermine the quest for justice, leaving a void in the pursuit of truth.

The case underwent a tumultuous legal journey, with the trial court initially acquitting the husband and his family of various charges in 2004. Subsequently, the Karnataka High Court upheld the acquittal but convicted the husband for cruelty/domestic violence in 2010. However, the Supreme Court, upon review, found that crucial evidence suggesting suicide had been overlooked by the lower courts.

Despite the gravity of the allegations, the Supreme Court emphasised the husband's right to a fair trial and the presumption of innocence until proven guilty. The Court's decision to send the case back to the trial court for a fresh decision underscores its commitment to due process and procedural fairness.

As a consequence of the Supreme Court's ruling, the husband was granted interim protection from arrest until June 3, pending his appearance before the sessions court for bail terms. Additionally, the sentence imposed by the High Court was suspended until the conclusion of the fresh trial.



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#### 4. Old versus New: Detention Period for Undertrial Prisoners

The provisions on the maximum detention period for undertrial prisoners in the old Criminal Procedure Code (CrPC) and the new Bharatiya Nyaya Sanhita (BNS) both aim to limit the duration an individual can be held during the investigation, inquiry, or trial of an offence. However, the new provision under the BNS introduces several significant changes and additional complexities:

- ❖ **Criteria for Release on Bond vs. Bail:** The old CrPC provision (Section 436A) specifies that an undertrial who has been detained for a period up to one-half of the maximum sentence prescribed for the offence can be released on personal bond, with or without sureties. In contrast, the new BNS provision (Section 479) simplifies this by stating that such individuals will generally be released on bail. Additionally, it introduces a favourable condition for first-time offenders, allowing their release on personal bond if they have served one-third of the maximum sentence, thereby providing some leniency for those without prior convictions.
- ❖ **Exclusion of Certain Offences:** Both provisions exclude offences punishable by death. However, the BNS also excludes offences punishable by life imprisonment from its leniency in pre-trial detention, expanding the range of serious crimes for which extended detention without bail can be maintained.
- ❖ **Detailed Provisions for Extended Detention:** While both laws allow the court to extend detention beyond the half-way mark of the maximum imprisonment period, the BNS adds procedural detail, requiring a written order from the court after hearing the Public Prosecutor. This aims to ensure transparency and justification for continued detentions.

- ❖ **Handling Multiple Offences:** The BNSS introduces a specific clause (subsection (2)) addressing situations where multiple offences or cases are pending against an individual, restricting the possibility of release on bail, which is not explicitly addressed in the old CrPC.
- ❖ **Role of Jail Authorities:** An innovative aspect of the BNSS is the proactive role assigned to jail authorities. It mandates that the Superintendent of the jail must apply for the release of the detained person once they have served one-half or one-third of the maximum eligible detention period. This procedural addition ensures that the rights to possible release are automatically initiated, rather than depending solely on the actions of the detainee or their legal representation.

## 5. Past Exam Highlights: Prelims and Mains

### *Prelims:*

1. Where mortgagee is entitled to enjoy the benefits of the mortgaged property in lieu of interest on debt, the mortgage is called
- a. simple mortgage
  - b. equitable mortgage
  - c. usufructuary mortgage
  - d. english mortgage

**Ans. (c)**

**Explanation:** In an usufructuary mortgage, as described in the Indian Transfer of Property Act, the mortgagee (the lender) has the right to possess and derive benefits (such as income or profits) from the mortgaged property. These benefits are in lieu of interest on the loan provided to the mortgagor (the borrower).

2. Which is not specifically mentioned as a kind of Mortgage in the Transfer of Property Act, 1882?
- a. Equitable Mortgage
  - b. Anomalous Mortgage
  - c. Mortgage by deposit of title deeds
  - d. English Mortgage

**Ans. (a)**

**Explanation:** In the Transfer of Property Act, 1882, specific types of mortgages are defined, such as simple mortgage,

usufructuary mortgage, English mortgage, mortgage by conditional sale, and mortgage by deposit of title deeds. Although the term "equitable mortgage" typically refers to a mortgage by deposit of title deeds in common parlance, it is not specifically mentioned as such in the Act.

3. In which case for the first time, the Supreme Court had laid down certain principles to decide as to when a corporation can be said to be an instrumentality of the state :—

- a. Ramana Dayaram Shetty v. International Airport Authority of India
- b. Sukhdev Singh v. Bhagatram
- c. Rajasthan State Electricity Board v. Mohan Lal
- d. Soni Prakash Rekhi v. Union of India.

**Ans. (a)**

**Explanation:** In this landmark case, the Supreme Court of India established the framework for determining when a corporation can be considered an "instrumentality" or "agency" of the state, thereby falling under the ambit of "state" as defined in Article 12 of the Constitution of



India. The principles laid down in this case help in assessing whether a corporation is subject to constitutional and legal norms applicable to the state.

**4. The Supreme Court of India has adopted new approach for the interpretation of the concept 'Equality' in :—**

- a. State of West Bengal v. Anwar Ali Sarkar
- b. E.P. Royappa v. State of Tamil Nadu
- c. Keshavananda Bharati v. State of Kerala
- d. State of Karnataka v. Appa Balu Ingale.

**Ans. (b)**

**Explanation:** In the case of E.P. Royappa v. State of Tamil Nadu, the Supreme Court of India adopted a new approach towards the interpretation of the concept of 'Equality' as enshrined in Article 14 of the Constitution of India. This landmark judgement introduced the "arbitrariness" test, establishing that equality is not merely about the application of laws in the same manner to all in similar circumstances, but also about the absence of arbitrariness in state action.

**5. An order or decree passed in a suit presented under Section 6 of the Specific Relief Act is**

- a. Appealable
- b. Reviewable
- c. Neither Appealable nor Reviewable
- d. Appealable & Reviewable Both

**Ans. (c)**

**Explanation:** Under Section 6 of the Specific Relief Act, which deals with the recovery of possession of immovable property on the basis of prior possession, the decree or order made is specifically designed to be summary in nature. This means the procedure is intended to be quick and based on the possession rather than title. Importantly, the

Act stipulates that the order or decree passed under this section is neither appealable nor reviewable.

**6. In a suit under 6 of the Specific Relief Act, the Court can**

- a. adjudicate on the title
- b. direct the defendant(s) to remove the structure
- c. permit the plaintiff to pull down the structure
- d. none of the above

**Ans. (d)**

**Explanation:** Section 6 of the Specific Relief Act is designed for the recovery of possession based purely on the fact of prior possession, rather than on the legal right or title. The court's role in a suit under this section is specifically limited to addressing the immediate possession and does not extend to adjudicating on the title to the property.

**7. The expression ' goods' under Section 2(7) of the Sale of Goods Act, 1930 includes**

- a. both movable and immovable property
- b. every kind of immovable property including actionable claims and money
- c. every kind of movable property other than actionable claims and money
- d. All movable property including money

**Ans.(c)**

**Explanation:** Under Section 2(7) of the Sale of Goods Act, 1930, 'goods' are defined specifically as every kind of movable property, excluding actionable claims and money.

**8. 'Property' under Section 2(11) of the Sale of Goods Act, 1930 means**

- a. The general property in goods
- b. Merely a special property in goods
- c. Mercantile element in goods
- d. Quality element in goods

**Ans. (a)**

**Explanation:** In the context of the Sale of Goods Act, 1930, Section 2(11) defines 'property' as referring to the general property in goods, which means the ownership rights. This encompasses the total set of rights that an owner has over the goods, including the right to transfer the goods to another.

**9. As per the provisions of section 26 of the Negotiable Instruments Act:**

- a. A minor may draw instrument so as to bind all parties including himself
- b. A minor shall not draw instrument so as to bind any party
- c. A minor may draw instrument so as to bind all parties except himself
- d. A minor shall not indorse instruments

**Ans. (c)**

**Explanation:** According to Section 26 of the Negotiable Instruments Act, a minor is

capable of drawing, endorsing, delivering, and negotiating a negotiable instrument, but such actions do not bind the minor personally due to the legal incapacity of minors to enter into binding contracts. However, these actions can bind other parties who are competent to contract.

**10. Under Section 97 of Negotiable Instruments Act when the party to whom notice of dishonour is dispatched is dead, but the party dispatching the notice is ignorant of his death, then :**

- a. The Notice is insufficient.
- b. The Notice is sufficient.
- c. Notice shall be given to legal representative
- d. None of these

**Ans. (b)**

**Explanation:** Under Section 97 of the Negotiable Instruments Act, if the party to whom a notice of dishonour is dispatched is deceased, and the sender is unaware of the death, the notice is still considered sufficient. This provision accommodates the practical realities where the sender might not have immediate knowledge of the party's death.

**De Facto IAS**

**Mains**

**Q.: Write a short note on lack of reasonable and probable cause in malicious prosecution.**

In the tort of malicious prosecution, the concept of "lack of reasonable and probable cause" is a pivotal element. This concept ensures that the legal system is not misused for personal vendettas or to harass others with baseless suits.

#### **Reasonable and Probable Cause**

Reasonable and probable cause is a standard that requires the person initiating the prosecution (the defendant in a malicious prosecution case) to have a reasonable belief in the guilt of the accused (the plaintiff in the malicious prosecution case). This belief should be based on an honest and reasonable assessment of the facts available at the time the proceedings were initiated.

In the landmark case of *Herniman v. Smith* [1938] AC 305, the House of Lords in the United Kingdom elaborated on this concept. It was held that for a successful claim of malicious prosecution, the absence of reasonable and probable cause must be proved by the plaintiff.

### **Objective and Subjective Elements**

The test for reasonable and probable cause has both an objective and a subjective component. Objectively, there must be facts that would lead a reasonable person to believe in the possibility of the accused's guilt. Subjectively, the prosecutor must genuinely believe in the accused's guilt based on these facts.

### ***Hicks v. Faulkner (1878)***

This case is often cited as a foundational case in understanding reasonable and probable cause. The court held that for a prosecution to be deemed as having been initiated with reasonable and probable cause, it must be based on circumstances that would lead an ordinarily prudent and cautious man under the circumstances to believe that the accused was probably guilty of the charge.

### **Application in Indian Law**

In Indian jurisprudence, the principle of malicious prosecution is well-recognized. The Supreme Court of India, in the case of *West Bengal State Electricity Board v. Dilip Kumar Ray* [(2007) 12 SCC 191], articulated the significance of the absence of reasonable and probable cause in a claim of malicious prosecution. The court observed that the onus is on the plaintiff to show that the defendant had no honest belief in the guilt of the plaintiff and that his conduct was actuated by malice or indirect motive.

If a court finds that there was a lack of reasonable and probable cause for initiating the prosecution, the defendant (the one who initiated the original prosecution) can be held liable for damages in a malicious prosecution suit. This principle acts as a safeguard against the abuse of legal processes.

## **6. Clear Concepts: Pith and Substance**

The Doctrine of Pith and Substance is a judicial principle utilised primarily to resolve disputes regarding the constitutionality of legislation under federal systems, such as those found in India. This doctrine aims to ascertain the true nature of legislation challenged for jurisdictional validity by determining its "pith and substance," or true object and character.

The origin of this doctrine can be traced back to Canadian constitutional law but has been adeptly integrated into Indian jurisprudence. The essence of the doctrine is to look beyond the mere text of the law to its actual substance. If, fundamentally, the law falls within the scope of the authority enacting it, incidental encroachments into other jurisdictions do not render it invalid. This approach helps maintain the federal balance by allowing some degree of overlap in legislative functions but prevents one government level from usurping the powers vested in another.



***State of Bombay v. F.N. Balsara, 1951:*** One of the earliest and most cited cases applying this doctrine, where the Supreme Court examined the Bombay Prohibition Act, 1949. The Act was challenged as it touched upon subjects both within the State and Central jurisdictions. The Court held that the true substance of the Act was the maintenance of public health and morals, a State subject, despite its incidental encroachment on trade and commerce, a Central subject.

***State of Rajasthan v. G. Chawla, 1959:*** Here, the Supreme Court reiterated the doctrine's utility in determining the scope of legislative competence. The court observed that if the legislation substantially falls within the powers expressly conferred by the Constitution to the legislature, then it cannot be deemed unconstitutional merely because it incidentally affects matters outside the permissible scope.

In practice, the application of this doctrine has allowed State laws to have incidental effects on Central subjects and vice versa, thus promoting cooperative federalism. For example, state laws on agriculture may affect industries (a Central subject), and yet be upheld if their essential character pertains to agriculture.

