

The Crime & Justice Gazette

NEWSLETTER BY GNLU CENTRE FOR RESEARCH IN CRIMINAL JUSTICE SCIENCES

“In the teeth of these facts, glaring enough they are, if the court shut its doors to the couple who are married and bringing up the child, the entire proceedings would result in a miscarriage of justice.”

- Karnataka High Court

“To get bail, the defendant must persuade the court that there are reasonable reasons for thinking he is not guilty of such an offense and is not likely to commit any crime while on release. It is comparable to a ‘trial within a trial’.”

- On Twin Conditions of Bail under PMLA



Image Source: Lifestyle Asia

After killing his victims, Chandrakant Jha preferred to have dinner in the same room where his victims lay lifeless. In his own words, he is a specialist in chopping bodies. Following his arrest after his final murder in 2007, he confessed that he had perfected the art of cutting bodies leading to minimum blood oozing out after mutilation.

MESSAGE FROM THE CENTRE-HEAD

May the truth always win and good triumph over evil.

It is my utmost pleasure to write this message in the eighth edition of the Crime and Justice Gazette, a newsletter by the GNLU Centre for Research in Criminal Justice Sciences. Truth, courage & bravery, these qualities are a must for every criminal case that is to be instituted, investigated and tried.

Our Hon'ble Director Sir, Prof Dr. S. Shanthakumar, who laid the foundation of this centre, two years before, made its mandate clear that GCRCJS should bring out study, research and training in every aspect of criminal justice and the present Newsletter, is one step ahead in the same direction.

This is the result of the hard work of our student team, which has infinite zeal and never-ending motivation. I wish the team every success and also hope that this newsletter will fill the gap of information in the field of criminal laws for its readers. My best wishes to the student convener (Ashika), who has made this newsletter a reality, to the editors, to every team member as contributors, and every reader, who will let us know improvements and enable further excellence in this endeavor.



Dr. Anjani Singh Tomar

MESSAGE FROM THE TEAM

The GNLU Centre for Research in Criminal Justice Sciences, ever since its inception, is making continuous efforts to improve the culture of Research and Analysis in the field of Criminal Law and Justice System. The Centre has been reaching new heights since its inception. In the said time, we have managed to successfully conduct one National Essay Writing Competition; a Certificate Course on Cyber Crime, Cyber Forensics and Law (in collaboration with National Forensic Sciences University, Gandhinagar and Police Academia Interactive Forum); first of its kind-Police Image Building Workshop; eleven sessions of “Crime & Justice: A Discourse Series” on some of the pertinent topics having great contemporary relevance; several research posts for our Instagram page. The Centre provides a platform for a holistic research environment and aims to further knowledge and academic discussions about the multifaceted dimensions of criminal science.

GNLU Centre for Research in Criminal Justice Sciences is committed to achieving a goal of motivating law students to do research, especially in criminal law. And, for the same here we are with the eighth edition of our newsletter 'The Crime & Justice Gazette' which aims to cover contemporary developments as well as criminal law cases and events from the past.

We would like to express our heartfelt gratitude to our Hon'ble Director Sir, Prof Dr. S. Shanthakumar, for his unwavering support, as well as our Faculty Convenor, Dr. Anjani Singh Tomar, for believing in us and encouraging us to pursue our research in every possible direction.

Disclaimer

The authors' opinions expressed in the newsletter are their own, and neither GCRCJS nor GNLU is responsible for them. The case briefs solely summarise the current state of the cases' verdicts or orders, and do not cover anything with respect to future proceedings or appeals. The newsletter is only for internal circulation in GNLU and will be available on the GCRCJS official webpage on a later date.

CONTRIBUTORS

Ashika

(Student Convenor & Editor-in-chief)

Aditya Dalal, Ananya & Simran Srivastava

(Managing Editors)

Content Contributors

Tanishq Sharma

Vardaan Mahajan

Pragya Chainta

M. Sreelaya

Mihir Wagh

Sudarshana Mahanta

Bhaavya Sharma

Copy Editors

Aaryan Dwivedi

Social Media & Outreach

Aditya Dalal

Anya Denise Aranha

Pragya Chainta

Raashi Sarupria

Newsletter Design by:

Anya Denise Aranha

TABLE OF CONTENTS

PREFACE	1
TWIN BAIL CONDITIONS UNDER PMLA ACT: DRACONIAN PROVISIONS OR NECESSARY PREVENTIVE MEASURES	2
QUASHING OF RAPE FIR UNDER S.482 CRPC. AN EXCUSE FOR MERCY?	4
MOVIE REVIEW - INDIAN PREDATOR: THE BUTCHER OF DELHI	7
RECENT DEVELOPMENTS	8
JUMBLED WORDS	13
CROSSWORD	14
ANSWERS FOR CURRENT AFFAIRS - ISSUE 7	15
ANSWER FOR WORD SEARCH - ISSUE 7	16

P R E F A C E

Criminal law is a dynamic study of law that undergoes development at every curve of dawn. This newsletter attempts to encapsulate the recent advancements in criminal law through various judgements, articles and reviews.

To begin with, the authors have presented a comprehensive review and comparative analysis of the twin bail conditions under the PMLA Act. The newsletter further questions whether the quashing of a rape FIR under Section 482 of the Code of Criminal Procedure, 1973 is an excuse for mercy. We've also provided a review of the famous non-fiction documentary "Indian Predator: The Butcher on Delhi" currently streaming on Netflix. Not to forget, important recent judgements from the Supreme Court and different High Courts of India. The fun doesn't stop there; there's also a mind-boggling crossword for you to solve! While you're at it, there are some words that are in need of unjumbling. Also, don't forget to check the answers of last issue's word search and current affairs of the month!

Happy Reading!

**TWIN BAIL
CONDITIONS UNDER
PMLA ACT:
DRACONIAN
PROVISIONS OR
NECESSARY
PREVENTIVE
MEASURES**

TANISHQ SHARMA

Introduction:

On July 27, 2022, the Supreme Court issued a ruling on the validity and interpretation of specific provisions of the Prevention of Money Laundering Act, 2002 (PMLA) and the procedure followed by the Enforcement Directorate (ED) in the course of investigating offenses, opening the barrier to further debate on the fair procedure and protecting the rights of accused in money laundering cases. The Supreme Court upheld the constitutional validity of the twin conditions: for bail, which falls within the ambit of specific provisions of Section 45 of the Prohibition of Money Laundering Act, 2002.

The SC upheld this judgment in the case of Vijay Mandal v. Union of India and observed that money laundering is one of the worst crimes which creates havoc on a country's economy and serves as a cover for serious crimes, including terrorism, offenses related to NDPS Act, etc. This article discusses challenges to the legality of the PMLA and the modifications that resulted from them. It will also emphasize what revisions were made in Section 45(1) and the sources of concern in the PMLA legislation.

The Twin Conditions under Section 45 for release on bail:

Section 45 of the PMLA serves to secure bail

for a suspect accused of money laundering under the Act. It commences with a non-obstante clause declaring that, regardless of anything in the Code of Criminal Procedure, 1973 ('CrPC'), no person accused of an offense under the Act will be released on bail unless the two conditions set out therein are satisfied. In order to be granted bail under Section 45, two conditions must be satisfied:

1. the prosecutor must be given a chance to object to the bail application; and
2. there must be reasonable grounds for believing that he is not guilty of such a crime and is not likely to commit any offense while on bail.

A brief understanding of the following indicates that it establishes an exceptionally high threshold for bail. To get bail, the defendant must persuade the court that there are reasonable reasons for thinking he is not guilty of such an offense and is not likely to commit any crime while on release. It is comparable to a "trial within a trial." This also throws out the much-lauded presumption of innocence and practically imposes a reverse onus on the accused, who must convince the court during the bail hearing that he is innocent of the crime.

The twin conditions stated in Section 45 would have no significant impact on a bail application involving the offense of money laundering because if Section 45 applies, the Court does not consider whether the person prosecuted is guilty of the crime of money laundering, but rather whether such person is guilty of the scheduled or predicate offense. This has been rectified since the court will now use its intellect to determine whether the individual is guilty of a money laundering offense under the PMLA Act. The Supreme Court had frowned upon the twin criteria precisely because they inverted the presumption of innocence, which was contradictory to the basis of criminal jurisprudence.

Challenges to the constitutionality of the bail conditions of PMLA and the resulting changes:



Image Source: Supreme Court Observer

Section 45 (1) of the PMLA addresses bail restrictions in money laundering situations. It was argued that they were arbitrary and stringent. This section was declared unlawful by the Supreme Court in Nikesh Tarachand Shah v. Union of India [2018] 11 SCC 1. Section 45 provides two conditions for the issuance of a bail bond. The court must be persuaded that the prisoner did not commit the alleged offense and would not commit any crimes while on parole. In addition, the prosecution must have the option to oppose any bail motion. In its recent decision affirming the constitutionality of these restrictions, the Court emphasized that other statutes also require the exact prerequisites.

The ruling of the Supreme Court in Kartar Singh v. State of Punjab [(1994) 3 SCC 569] upheld the TADA's twin criteria. In addition, it disagreed with the findings in the Nikesh Tarachand Shah case, which determined that the remarks made on the "heinous aspect" of the Kartar Singh judgments did not apply to PMLA offenses. After establishing that money laundering is one of the most severe offenses, the court ruled that Section 45(1) must pass the tests of fairness, proportionality, and connectivity with the goals and objectives. As a result, obtaining bail under the PMLA is extremely difficult, as the court must be persuaded that the grounds are legitimate, which means that it must be established that the accused did not commit the crime. Similar to TADA, this places the "burden of proof" on the accused.

In Nikesh Tarachand's case, the Court held

that Section 45 (twin conditions) are violative of Article 14 and 21 of the Constitution. The Supreme Court of India stated that the impositions in this issue would violate the right to personal liberty by inverting the presumption of innocence. The Supreme Court decided that the challenged bail provisions would severely limit the defendant's right to freedom and fundamental rights.

Amendments made in Section 45(1):

As a result of the ruling, Section 45(1) was amended in 2018, and the Finance Act (No. 2) of 2019 made it clear that the amendment would be applied retrospectively. Parliament remedied the flaw in Section 45(1) that was deemed unconstitutional in Nikesh Tarachand Shah by adopting the Amendment Act of 2018, changing the provision's wording from "no person accused of an offense punishable for a term of imprisonment of more than three years under Part A of the Schedule" to "no person accused of an offense under the Act," restricting the applicability of the Act's two-pronged bail conditions to the offense of money laundering.

Article 45(1) was challenged for constitutionality in Vijay Madanlal Choudhary, considering its modification in 2018. In upholding the provision, the Supreme Court emphasized the seriousness and heinousness of the act of money laundering and stated that the statute serves a compelling state purpose. The court did not say once in the ruling that there was no such compelling State interest in the crime of money laundering. As a result, the PMLA's twin requirements under subsection 45(1) were invalidated only because they applied to scheduled offenses rather than because there was no legitimate interest.

Cause of concern:

Various petitions challenging the arbitrary procedure followed by the ED under the Act were filed before the Supreme Court. Specifically, The root cause of the petition is that the PMLA enables the commencement of

criminal proceedings against a person without revealing the charges levied against him in the Enforcement Case Information Report (ECIR). It has been asserted that this approach violates the accused's constitutional rights and the fundamental principles of criminal law, which provide that an accused person must be given full notice of the offense against them.

Intriguingly, Section 50 of the PMLA also permits an accused individual to be summoned to record financial transaction-related statements. The absurdity arises in that the accused may be completely oblivious of the claims against them while recording such remarks, even though such statements are admissible as evidence. Thus, the accused may be driven to make self-incriminating remarks under the threat of criminal punishment without sufficient knowledge of the evidence against them. Unawareness of the alleged accusations further hinders the accused's capacity to defend themselves at the bail stage.

Conclusion:

This decision is expected to have far-reaching repercussions on money laundering case procedures. It is also anticipated to increase the investigative authority of the ED in such circumstances. The State guarantees the right to due process as a protection, and like other rights, its exercise may be subject to reasonable constraints to protect the nation's broader interests. Since the nature and severity of offenses under the PMLA differ from those under the preceding statutes, the existing procedure followed by the ED violates not only the process outlined in the Cr. P.C., and the fundamental rights guaranteed to every citizen under Articles 14, 21, and 23. Personal liberty, total freedom protected by the Indian constitution, cannot be diluted by the secrecy of action and the denial of rights without due process. To protect the accused's constitutional rights and prevent arbitrariness, respect for the method and

safeguards outlined in the Criminal Procedure Code should be required. Notably, the presumption of innocence must be maintained unless proven otherwise. Unanswered is whether the PMLA's particular (but draconian) procedure strikes a balance between the rights of the accused and the need to combat the problem of money laundering.

QUASHING OF RAPE FIR UNDER S.482 CRPC. AN EXCUSE FOR MERCY?

VARDAAN MAHAJAN

Introduction:

The wide section 482 of the Code of Criminal Procedure, 1973 ("CrPC") allows for the application of inherent powers of the High Courts in terms of criminal proceedings; one such power is the power of quashing the First Information Reports (FIR) for the cessation of criminal proceedings at any stage of the prosecution. However, the Code does not deal with what explicitly constitutes this inherent power. And this becomes the very reason for its wide use, which entails the termination of a criminal offense altogether.

But does Section 482 entail quashing of heinous offences under the Indian Penal Code?

The prerequisite for quashing FIR includes securing the ends of justice and preventing the abuse of court processes as laid down in *Narinder Singh v. State of Punjab*, ((2014) 6 SCC 466). The quashing of proceedings under section 482 can be initiated based on settlement or compromise between the parties even when the offense is non-compoundable, provided that the parties file a joint application for the same. Such revocation of criminal proceedings differs from the invocation of court jurisdiction for

compounding offenses classified as such in the IPC. While compounding a crime, the court's power is governed by the provisions of Section 320 of the CrPC.

The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute revolves ultimately around the facts and circumstances of each case. As per opinions of various courts across the country, including the Apex Court in *Daxaben v. State of Gujarat* (2022 SCC OnLine SC 936), quashing of FIR on the grounds of compromise should not be dealt with in cases involving heinous crimes. In the case of *Gian Singh v. State of Punjab* ((2010) 15 SCC 118), the apex court specifically asked the High courts to refrain from quashing criminal proceedings in cases of heinous offenses.

Contrarily, the procedures may be annulled by the HC when the offense is civil, the harm is personal, and the matter is settled amicably between the parties. However, even if the crime does not fall under the category of compoundable offenses, the High Court may dismiss the case if a conviction is not possible and the parties are willing to resolve the dispute amicably. But due to the absolute discretion of the judge as well as the difference in facts and circumstances of each case, varying decisions have been taken where Courts have allowed for the quashing of FIRs in cases involving heinous offenses.



The Inherent Powers of Indian Courts: Recent Judicial Opinions:

In a Bombay HC case, a year after the lodging of the FIR, the victim filed an affidavit before the court stating that she was friends with the accused and that the two had gotten married in the said period. It stated that owing to the "intervention of our friends, family, and well-wishers, the matter came to be settled amongst ourselves amicably outside of the court." The Bombay HC quashed Rape charges against the accused on the grounds that "there would be no useful purpose to be served if the accused and victim got married to each other." *Kiran Tanaji Limbhore v. State of Maharashtra* (2022 SCC OnLine Bom 1881).

In a case before the Supreme Court, arising out of a Delhi HC judgment, a rape FIR filed in 2013 by the victim was quashed by the Apex court despite observing that the relationship between the two was violent. The court reasoned its decision on the fact that the victim was married to the accused. Although the High Court relied upon the 2012 SC decision, refraining from quashing the FIR, it was accordingly argued before the SC that the criminal proceedings against the accused should be dropped if he marries the victim even after filing the FIR and is charged with rape as a result of consensual intercourse under the false promise of marriage.

The offense of rape is one such example where the accused, on a compromise with the victim, approaches the court seeking the quashing of his alleged offense. Rape on the pretext of marriage has been a highly debatable topic. However, the issue at hand is whether the crime of rape can be quashed if the victim and accused agree to marry.

The grey area lies in whether settlement or compromise can be equated to the victim's consent and can further act as a reason to terminate criminal proceedings. On the one hand, it is argued that the nature of and the very definition of "crime," especially one as heinous as rape, is such that it is seen as a threat to society and thus an offense against the entirety of the

people. While at the same time, it is questioned to what extent the court has to interfere in the personal lives of two individuals. This brings us to the very idea of why proceedings which are “criminal” in nature are allowed to be quashed in the very first place. Leaving cases where proceedings are quashed on the grounds of false FIR or the absence of a prima facie offense being made out, the focus here is on the quashing of proceedings based on a compromise between the parties. The Indian Penal Code 1860 (“IPC”) already provides for the “compounding” of offenses, and it clearly disjuncts them from crimes that are non-compoundable in nature.

In Rama v. State of Karnataka, in August 2022, the Karnataka High Court quashed criminal proceedings under the Protection of Children from Sexual Offences (POCSO) Act, 2012, wherein a 21-year-old man was accused of rape of a 17-year-old girl in 2017. Accordingly, the FIR was filed with the police, and the Police mentioned charges of kidnap, rape under the IPC, and the offense of ‘penetrative sexual assault’ under Section 4 of the POCSO Act. Further, with trial commencing in 2019, the girl, then 18, stated that the alleged acts by the man were consensual in nature. Later, in 2020, the girl married the accused and had a child in 2021. Thereafter, the petitioner moved to the High Court seeking the quashing of criminal proceedings commenced four years ago against him under the POCSO Act. The judgment was noteworthy, with the judges allowing the petition on the following basis:

“In the teeth of these facts, glaring enough they are, if the court shut its doors to the couple who are married and bringing up the child, the entire proceedings would result in a miscarriage of justice.”

Conclusion:

Despite the judgment by the Supreme Court on “refraining” from quashing criminal proceedings by the High Court, various courts across the country have taken a different stance and brought the laws into

their hands under the ambit of Section 482 of the CrPC. Inherent powers of the court allow the judges “prevent miscarriage of law,” but does this power extend to the termination of criminal proceedings even in cases of heinous offenses? They deeming such decisions and remarks of the Courts as binding sways away from the principles of criminal law. Mere consent of the victim posts the settlement or compromise between him and the accused does not empower the courts to reduce the crime to nullity.

These recent judicial opinions and the unrestricted use of Section 482 CrPC gives incomparable power to the courts. Although the same is necessary for the reasons suggested in the section itself, it tends to defy the basic theory of punishment for the wrongdoer. Widening the ambit of such power, on the one hand, does protect the institution of family and allows for a chance for the accused to mend his mistake but at the same time, on the other, defies the criminal justice system on the mere basis of compromise between the parties. The idea of right in rem and crime against society is defeated if the crime is quashed on the basis of a private settlement between the parties. The concept of quashing FIR is necessary as the code should not overshadow the jurisprudence and principle of criminal law and, thus, should not entail the foregoing of heinous offences such as rape within its scope.



Image Source: News Deeply - The New Humanitarian

MOVIE REVIEW - INDIAN PREDATOR: THE BUTCHER OF DELHI

PRAGYA CHAINTA

One of the top-rated criminal documentaries, “The House of Secrets: The Burari Deaths,” was released by Netflix last year and gained significant traction worldwide. The television series received high accolades for its compelling storytelling and in-depth psychiatric analysis of the deaths of 11 family members in Delhi. However, the recently released Murder Documentary Indian Predator: The Butcher of Delhi, on the other hand, falls short in terms of narrative and psychological analysis, depending instead on the savagery of the serial murderer at heart.

The Indian Predator brings to mind the investigation of Chandrakant Jha, one of the nation's most horrifying serial murderers. He was found guilty in 2013 of three gruesome killings between 2003 and 2007. Over time, the case's appeal has declined, which is also bad news for the producers. Since the Burari event had not yet happened, it had the benefit of still being popular among the masses.

How the mental socio-cultural trauma turned a Bihari migrant into a serial killer:

Chandrakant Jha is a prime example of a psychopath. He has no remorse toward anyone. Perhaps a small amount of pride in making the cops run around for months, but remorse? None.

Many of the victims were his neighbours and friends from his hometown, people he had assisted in moving to Delhi. He killed in a manner akin to the story of the spider and the fly. The spider lures the fly into his web with promises before eating them. He would provide the victim's food, shelter, and

friendship. Then, out of the blue, attack them, rope them up, and murder them.

He always had a camera on hand in his early years as a murderer so that he could take pictures of his victims who were bound and gagged. One time, one of his victims managed to get away and take the camera with him.

This disturbing collection contains graphic images of scared victims, all of whom are either gagged or have had their lips sewed shut. He wanted to silence them, just as he had been silenced for years. Chandrakant Jha wasn't born a murderer. He became one.

Chandrakant was one of six children born into a family in the Ghosai village of Bihar. While his mother was a school teacher, his father worked in the irrigation department. The latter had a terrible temper, significantly impacting Chandrakant and fuelling his anxiety and desire for violence. In his interactions with the police, he disclosed how his parents didn't give him much attention, which left a significant gap in his upbringing.

As soon as he arrived in Delhi, he began working as a labourer at Azadpur Mandi. The documentary uncovers that each year, a number of Bihari migrants come to Delhi in quest of employment and end up working as labourers. Since the majority of them lack formal education and are from economically disadvantaged areas of society, they end up doing unskilled jobs.

Bihari Migrants are viewed as uncouth members of society who only deserve to be treated with disdain and abuse. They reside in run-down, cramped dwellings and colonies, far from their villages' clean air and open spaces, and their concerns and opinions are not taken seriously.

Chandrakant was brutally attacked by a local goon who stabbed him in the chest and tore it open during his first few years in Delhi. The police will constantly demand money from vegetable vendors like him, and union executives

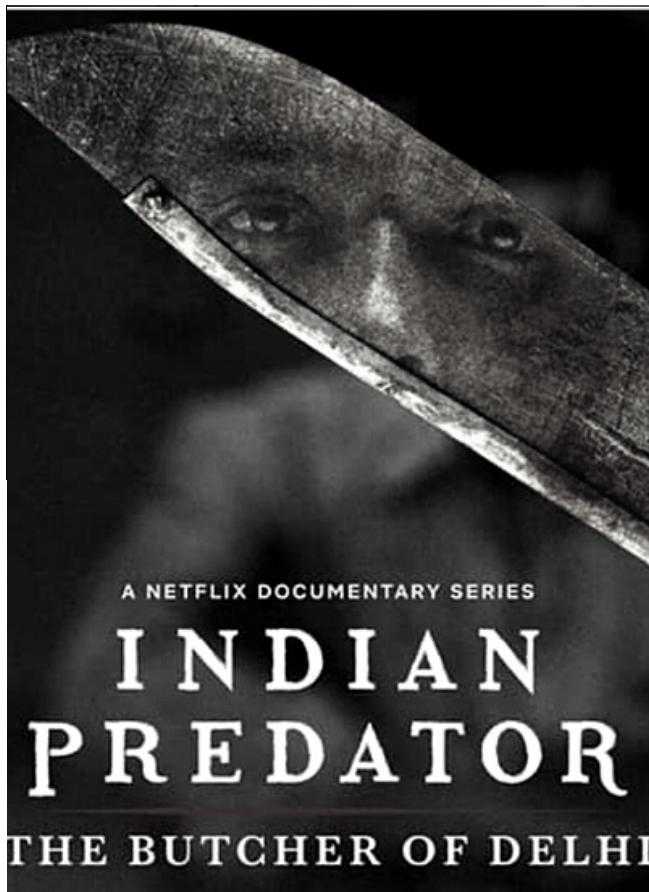


Image Source: The Telegraph

would deduct money from workers' monthly salaries. He had been raised in a home where violence was always the solution for everything. He witnessed the transformation of his mother into a fearsome person that everyone dreaded.

Dr. S.L. Vaya, a forensic psychologist with expertise in criminal behaviour, explained how Chandrakant developed antisocial behaviours as a result of his innate need to exert power over others in order to feel important and distinct among the throngs of migrants who arrive in Delhi in search of work and a means of subsistence. Being able to silence others gave him a sense of superiority and power. As an ordinary Bihari immigrant, he was unable to demand respect from the public, but by becoming a frightening killer, he was able to achieve the same.

So, that's what he did.

Chandrakant Jha is a prime example of what occurs when systems of care turn oppressive. He couldn't bear the pain and betrayal in his life when institutions like his family, the

police, and labor unions supposed to protect him and his rights turned against him. You have the ideal recipe for producing a psychopathic killer in a society when you combine these factors with the stigma of being an outsider and presumptions about his low intelligence based only on the fact that he is a laborer from Bihar.

His name is Chandrakant Jha.

RECENT DEVELOPMENTS

M. SREELAYA AND MIHIR WAGH

Kalicharan vs State of Uttar Pradesh, Criminal Appeal No. 122 of 2021

In the Supreme Court of India

Section 313 of the CrPC is not an empty formality, the circumstances must be explained to the accused.

Section 213 of the Code of Criminal Procedure, 1973; Section 313 of the Code of Criminal Procedure, 1973; Section 215 of the Code of Criminal Procedure, 1973; Section 464 of the Code of Criminal procedure, 1973; Section 148 of the Indian Penal Code, 1860; Section 149 of the Indian Penal Code, 1860; Section 302 of the Indian Penal Code, 1860; Section 307 of the Indian Penal Code, 1860.

The accused were convicted on different charges by the Fast Track Court- accused no.1, accused no.2, accused no.3, and accused no.4 were convicted for the offences punishable under Section 148 (Rioting, armed with deadly weapon) IPC, Section 302 (Punishment for murder) read with Section 149 (Every member of unlawful assembly guilty of offence committed in prosecution of common object) of the IPC, and Section 307 (Attempt to murder) read with Section 149 of the IPC. These charges were appealed in the High Court of Allahabad, which dismissed the appeals.

In the present appeal, the accused contended that there was an omission to frame a proper charge under Section 213, CrPC and moreover, that the material circumstance brought against the accused in the prosecution evidence that the deceased died due to injuries caused by the accused, was never put to the accused, thereby not following procedure under Section 313 of CrPC.

The Hon'ble Supreme Court observed that though evidence in the present case pointed to the accused committing the murder of the deceased by using sharp weapons, no charge was framed against them alleging that they murdered the deceased, and that it is necessary to frame a charge under Section 213 CrPC by stating the manner in which the offence was committed by the accused.

Further, the court agreed with the accused contentions regarding Section 313, CrPC, and observed that *"After an accused is questioned under Section 313 CrPC, he is entitled to take a call on the question of examining defence witnesses and leading other evidence. If the accused is not explained the important circumstances appearing against him in the evidence on which his conviction is sought to be based, the accused will not be in a position to explain the said circumstances brought on record against him"*. The court relied on the well-known judgment Sharad Birdhichand Sarda v. State of Maharashtra (1984) 4 SCC 116 to supplement its view. On these points, the court allowed the appeals and acquitted the accused.

Ram Pratap vs State of Haryana, Criminal Appeal No. 804 of 2011

In the Supreme Court of India

Suspicion, however strong, cannot substitute proof beyond reasonable doubt.

Section 302 of the Indian Penal Code, 1860.

The accused in the present case, appealed his conviction for the offence under Section 302

of the IPC, for allegedly committing the murder of the deceased who had died at the house of the accused. The accused along with others came to the house of the deceased and informed his brother (PW-4) about the death, upon which the brother registered an FIR against the accused and 3 others. The trial court held that the case was proved beyond reasonable doubt based on prosecution evidence, and convicted the accused while acquitting the 3 others based on the same evidence. On appeal, the High Court upheld the trial court's conviction of the accused based on the evidence of PW-4.

The Hon'ble Supreme Court held that the present case was based entirely on circumstantial evidence. By relying on the landmark judgment of Sharad Birdhichand Sarda v. State of Maharashtra (1984) 4 SCC 116, the court observed that the prosecution needs to establish each and every circumstantial evidence beyond doubt to prove a case based on it, and that *"the circumstances so proved must form a complete chain of evidence so as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show, in all human probability, that the act has been done by the accused"*. The court also observed that there was a 14 hour delay in reporting the incident to the police and moreover, the FIR was based on only suspicion. Based on these observations, the court allowed the appeal and acquitted the accused.

Atul S/o Raju Dongre and Ors. v. State of Maharashtra and Anr., Criminal Application No. 1287/2022

In the High Court of Judicature at Bombay

Marrying another woman without wife's consent constitutes cruelty under Section 498-A of the Indian Penal Code, 1860.

Section 376(2)(n) of the Indian Penal Code, 1860; Section 377 of the Indian Penal Code, 1860; Section 498-A of the Indian Penal Code, 1860; Section 494 of the Indian Penal Code, 1860; Section 294 of the Indian Penal Code, 1860; Section 323 of the Indian Penal Code, 1860; Section 504 of the Indian Penal Code,

1860; Section 506 of the Indian Penal Code, 1860; Section 482 of the Code of Criminal Procedure, 1973.

The accused in the present case, approached the High Court under Section 482 of CrPC for quashing the FIR against him and his family for cruelty to his wife, on various charges such as Section 376(2)(n) (rape repeatedly on the same woman) IPC, Section 377 (unnatural offences), IPC, Section 498-A (cruelty by husband or husband's relative) IPC, Section 494 (marrying again during lifetime of husband or wife) IPC, Section 294 (obscene acts) IPC, Section 323 (punishment for voluntarily causing hurt) IPC, Section 504 (intentional insult with intent to provoke breach of the peace) IPC and Section 506 (punishment for criminal intimidation) IPC.

The charges against the accused and his relatives were based on the facts that the accused performed forcible and repeated acts of sexual intercourse with his wife when she was pregnant, resulting in a miscarriage. It was also stated that his family members encouraged his cruel behaviour towards his wife, and were an active aid in his second marriage to another woman. It was also noted that the accused told the second woman that his wife had died, and that his family members supported this narrative.

Based on the above facts, the division bench observed that a prime facie case based on police investigation and the FIR was made out against the accused and against his family members. The court observed that all the applicants in the case meted out cruel treatment towards the wife. Moreover, the court also observed that due to the second marriage, there was a breach of trust of the second and the first wife as well. On a concluding note, the court held that that by trying to invoke the inherent power of court under Section 482, CrPC there was an abuse of process of law, and imposed costs of Rs. 25000 on the applicants while convicting them of all the charges.

M.K. Gheevarghese v. Mariam Gheevarghese



Image Source: India TV News

Kerala High Court

In the absence of any express bar or prohibition, Section 125 Cr.P.C. could be interpreted as conferring power by necessary implication to make interim order of maintenance subject to final outcome in the application.

Section 125 Criminal Procedure Code, Section 7(2) Family Courts Act.

This case deals with interim maintenance. The couple in question got married on 12.11.1995, and said marriage was dissolved on 18.06.2012 as per the order of the Family Court, Ernakulam. The claim for maintenance was filed by the respondent in the current case, who is the daughter of the plaintiff and the mother. Upon hearing the case the petitioner in the current case had been directed by the Family Court to pay interim maintenance, amounting to Rupees 15,000 per month. The parties are Christians.

The Division Bench, comprising of Justice Anil K. Narendran and Justice P.G. Ajithkumar, held that in the absence of any express bar or prohibition, Section 125 Cr.P.C. could be interpreted as conferring power by necessary implication to make interim order of maintenance subject to final outcome in the application. Placing emphasis on the decision of the Supreme Court in Shail Kumari Devi v. Krishnana Bhagwan Pathak, this bench observed that “*having regard to the nature of proceedings, the primary object to secure relief to deserted and destitute wives, discarded and neglected children and disabled and helpless parents and to ensure that no wife, child or*

parent is left beggared and destitute on the scrap-heap of society so as to be tempted to commit crime or to tempt others to commit crime in regard to them, it was held that the Magistrate had 'implied power' to make orders to pay interim maintenance”.

The Court next addressed the petitioner's argument that the respondent may only seek support under Section 7(2) of the Family Courts Act after emphasising that Section 125 could be read to grant the authority to impose interim orders of maintenance. It was averred that Section 7(2) enables a daughter to claim maintenance under Section 125 CrPC, and that a Christian daughter is entitled to claim maintenance.

Harishchandra Sitaram Khanorkar v. State of Maharashtra

Bombay High Court

DNA testing has an unparalleled ability both to exonerate the wrongly convicted and to identify the guilty. It has the potential to significantly improve both the criminal justice system and police investigative practices

Section 376(2)(j) of the Indian Penal Code,
Section 376(2)(f) of the Indian Penal Code,
Section 376(2)(i) of the Indian Penal Code,
Section 376(2)(n) of the Indian Penal Code.

It was alleged by the prosecution that the accused, Harishchandra Khanorkar, with whom the victim was residing, had, over a period of two years, repeatedly initiated forced sexual intercourse with the victim. The victim was a minor girl, and the accused had first initiated sexual intercourse when she was in the 9th standard. This continued as the victim entered to the 11th standard. Eventually, the victim (while visiting her mother) complained about abdominal pain and it was discovered that she was 7 months pregnant. The child was delivered, following which the child was given to Bal Kalyan Samiti and mother of the victim lodged a police complaint. During the investigation, the police utilized DNA samples.

The division bench of the Bombay High Court (Nagpur bench), comprising of Justice Rohit Deo and Justice Urmila Joshi-Phalke upheld the conviction of the accused under §376(2)(j), §376(2)(f), §376(2)(i), and §376(2)(n) of the Indian Penal Code. The prosecutrix and the appellant were the biological parents of the child she delivered, according to the DNA analysis. Nothing in the evidence indicated that the blood samples were tampered with, the judge noted. Because there is no evidence to support this defence, the court rejected the appellant's claim that he was wrongly implicated. Furthermore, it was stated that rape is more than just a physical assault; it frequently destroys the victim's entire psyche, necessitating the utmost compassion in handling such allegations.

Most importantly the court stated that “*The DNA testing has an unparalleled ability both to exonerate the wrongly convicted and to identify the guilty. It has the potential to significantly improve both the criminal justice system and police investigative practices. Modern DNA testing can provide powerful new evidence unlike anything known before DNA technology as a part of forensic science and scientific discipline not provide any guidance to investigation but also supplies the Court accurate information about the tending features of identification of criminals”.*

Narendra Kumar Gupta v State Rep by Assistant Director, Directorate of Enforcement

Madras High Court

Pertaining the Prevention of Money Laundering Act, the Madras High Court opined that personal liberty could not be arbitrarily taken away unless in accordance with the procedure set forth law.

Section 45 Prevention of Money Laundering Act,
Section 70 Prevention of Money Laundering Act

The Madras High Court was hearing an application for bail of a man charged under the Prevention of Money Laundering Act. Narendra Kumar Gupta, the petitioner, was detained on suspicion of aiding in the crime of international trade-based money laundering by receiving the

proceeds of crime in the bank account of the Hong Kong Company he held, which resulted in a loss of foreign currency worth Rs. 22.60 crores. The petitioner, however, asserted that he was merely being used as a scapegoat by another individual. The petitioner claimed that he had signed the paperwork that the guy had shown him under the idea that they were required in order for him to operate a business and, as a result, to obtain a loan from Hong Kong Banks at a cheaper interest rate. The ED was contesting the bail application on the grounds that he petitioner could not plead ignorance of the consequences of his own actions of signing the document and that he was responsible for the activities of the company under Section 70 of PMLA.

The bench of Justice AD Jagadish Chandra of the Madras High Court would grant bail to the defendant. The petitioner was not included as an accused person in the FIR, and the court noted that the respondents had not established a petitioner-to-predicate-offence direct link. Furthermore, the Court stated that *“It is a settled law that the right of personal liberty and individual freedom, which is probably the most cherished, is not in any manner, arbitrarily to be taken away from anybody even temporarily without following the procedure prescribed by law.”* The court granted the petition with the proviso that the petitioner submit the title deeds to immovable property valued at Rs. 5 crore and sign a bond for Rs. 10,000 because there was no specific reason why the petitioner should be denied bail and the court was satisfied that the petitioner had met the twin conditions to post bail in a case involving the PMLA.



Image Source: Raconteur

motivates one to perform gruesome acts
against humanity.

JUMBLLED WORDS

SUDARSHANA MAHANTA

1. A person who intentionally helps another person commit a felony but is usually not physically present during the crime.

CSSYORCAE

2. To free or absolve a person from any accusation or charge levied upon him/her.

EOTAXNERE

3. The fraudulent appropriation by a person to his own use or benefit of property or money entrusted to him by another.

ZBLEEMZTEMNE

4. The process in the common law system in which a first time offender of a prior criminal conviction seeks that the records of earlier process be sealed or destroyed from state or federal records.

PENGEXEUNMT

5. A preliminary examination of potential jurors by a judge or counsel.

ROIV EIRD

6. To take a person suspected of a crime into custody by authority of law.

RASTER

7. An accusation made against a person in respect of the offence alleged to have been committed by him/her.

GARCHE

8. A person who depart secretly or suddenly specially to avoid arrest, prosecution or service of process.

DONBASCER

9. Temporary custody of a suspect, either in the field or at the police station.

TENTIONED

10. Taking away of property or money illegally by force or threats of instant harm.

TORTEXION

CROSSWORD

BHAAVYA SHARMA

ACROSS

[3] Evidence suggesting the presence of the accused in some other place when the crime was committed.

[6] The evidence given by a witness under oath.

[8] Finding of 'not guilty' by a judge or jury.

[10] Theft or misappropriation of funds placed in one's trust or belonging to one's employer.

[12] When two or more people work together to commit a crime.

[13] Obtaining money or property by threat to a victim's property or loved ones, intimidation or false claim of a right.

[15] Lawyer who represents the state in a criminal trial.

[17] Crime of setting fire to cause damage intentionally.

DOWN

[1] Formal decision made by a judge or jury during a trial.

[2] A written order from a court directing law enforcement officers to conduct a search or arrest a person.

[4] Wilful damage or destruction of private or public property.

[5] The party who initiates a lawsuit by filing a complaint.

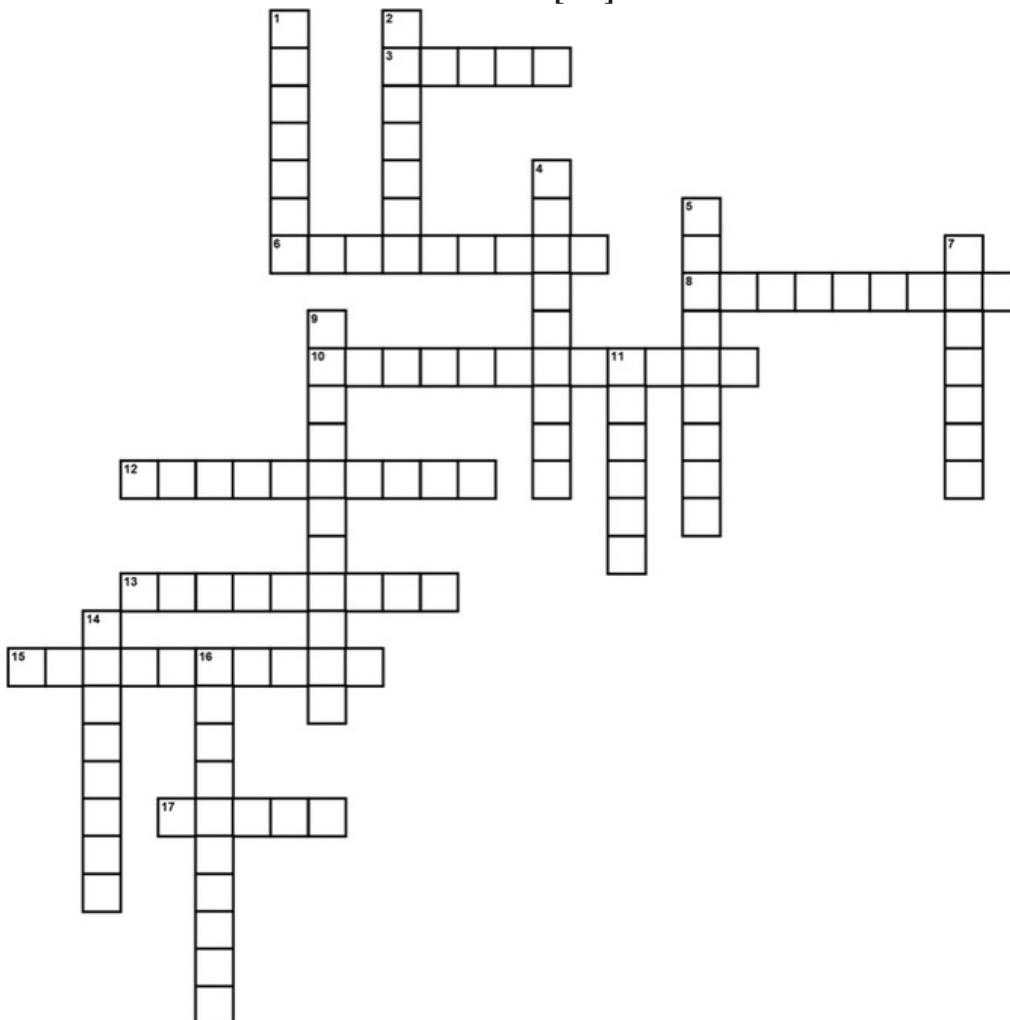
[7] Theft of personal property.

[9] An eye for an eye is an example of punishment based on:

[11] The crime of maliciously injuring or maiming someone, originally so as to render them defenseless.

[14] Killing of one person by another.

[16] Crimes committed electronically.



ANSWERS - CURRENT AFFAIRS

(ISSUE 7)

1. In March 2022, the government of India initiated the process of amendment in certain laws, find out what law is NOT one of them?

The Code of Civil Procedure

2. Recently, in May 2022 a three-bench of the Supreme Court of India issued a Historic Order recognising _____ as a “profession” and said that its practitioners across the country are entitled to equal protection as well as dignity under the law of the nation.

Sex work

3. Supreme Court of India on August 3, 2021 held that, _____ of a state can pardon prisoners, including in the death sentence cases. _____ can pardon the prisoners even before they have completed minimum 14 years of prison sentence. Bench also held that, _____ power to pardon overrides a provision given under Section 433A.

Governor

4. In which of these countries Sex Work is illegal?

Georgia

5. In the light of recent historic judgement, which one of them is the first country that decriminalised sex work?

New Zealand

ANSWER - WORD SEARCH

(ISSUE 7)

CRIMINAL TERMINOLOGIES

1. The application of force to another resulting in offensive contact. **BATTERY**
2. Crimes committed electronically. **CYBERCRIME**
3. Act of fraudulently making a false document or altering a real one to be used as if genuine. **FORGERY**
4. Killing of a human being by another. **HOMICIDE**
5. Malicious burning to destroy property. **ARSON**
6. Someone who helps another person to commit a crime. **ACCOMPLICE**
7. Use of physical force or threats to compel someone to commit an act against their will. **COERCION**
8. Act of committing a serious crime. **FELONY**
9. An agreement between two or more individuals to commit a crime, along with an act done to begin the crime. **CONSPIRACY**
10. A defense used in criminal procedure wherein the accused attempts to prove that they were somewhere other than at the scene of the crime at the time it occurred. **ALIBI**

J	K	P	Q	R	S	R	M	F	E	L	O	N	Y	N
P	H	N	S	P	D	K	A	E	Z	A	B	G	C	K
E	C	Y	B	E	R	C	R	I	M	E	Q	Q	O	G
A	J	I	C	N	A	H	S	E	X	S	W	O	E	S
L	Y	A	H	A	B	Y	O	I	C	D	E	P	R	D
I	T	I	U	T	A	B	N	M	V	F	R	H	C	G
B	R	K	I	P	T	H	E	N	I	G	T	K	I	M
I	B	H	E	O	T	I	M	E	H	C	Y	F	O	W
T	F	O	R	G	E	R	Y	M	J	H	I	V	N	F
E	E	M	P	N	R	A	A	E	K	J	U	D	L	G
R	O	L	I	L	Y	V	Y	N	L	K	I	X	E	H
A	R	I	C	K	C	O	N	S	P	I	R	A	C	Y
S	T	M	N	V	S	U	X	C	O	L	T	K	R	M
R	A	C	C	O	M	P	L	I	C	E	U	M	H	Z
T	F	G	H	X	L	U	R	F	E	R	Y	C	B	G



GNLU Centre for Research in Criminal Justice Sciences (GCRCS)
Gujarat National Law University
Attalika Avenue, Knowledge Corridor, Koba,
Gandhinagar - 382 426, Gujarat, INDIA

 gcrjs@gnlu.ac.in

 www.gnlu.ac.in

 [gnlu_gcrjs](https://www.instagram.com/gnlu_gcrjs)

 [@gcrjs](https://twitter.com/gcrjs)

 [linkedin/gcrjs](https://www.linkedin.com/company/gcrjs)