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1.	Justice R.V. Raveendran, <i>How to be a Good Judge: Advice to New Judges</i> in ANOMALIES IN LAW & JUSTICE: WRITINGS RELATED TO LAW & JUSTICE, EBC Publishing (P) Ltd., (2021) pp. 277-317	02
2.	Lord Denning, “ <i>Into the Conduct of Judges</i> ” in THE DUE PROCESS OF LAW, Oxford University Press (2012), pp. 58-66	45
3.	R. C. Lahoti, <i>Canons of Judicial Ethics</i> , NJA Occasional Paper Series No. 5, National Judicial Academy, Bhopal, India	56
<u>Additional Reading:</u> <ul style="list-style-type: none"> • <i>The Bangalore Principles of Judicial Conduct</i>, (The Bangalore Draft Code of Judicial Conduct 2001 adopted by the Judicial Group on Strengthening Judicial Integrity, as revised at the Round Table Meeting of Chief Justices held at the Peace Palace, The Hague, November 25-26, 2002.) https://www.unodc.org/pdf/crime/corruption/judicial_group/Bangalore_principles.pdf • <i>Restatement of Values of Judicial Life, 1999</i> [As adopted by Full Court Meeting of the Supreme Court of India on 7th May, 1997]. https://main.sci.gov.in/pdf/Notice/02112020_090821.pdf 		
JUDGMENTS <i>(Judgments mentioned below include citations and short notes for reference only. Refer full judgment for conclusive opinion)</i>		
1.	<i>Muzaffar Husain v. State of Uttar Pradesh and Anr.</i> 2022 SCC OnLine SC 567 [Showing undue favour to a party under the guise of passing judicial orders is the worst kind of judicial dishonesty and misconduct. The extraneous consideration for showing favour need not always be a monetary consideration. It is often said that "the public servants are like fish in the water, none can say when and how a fish drank the water". A judge must decide the case on the basis of the facts on record and the law applicable to the case. If he decides a case for extraneous reasons, then he is not performing his duties in accordance with law. As often quoted, a judge, like Caesar's wife, must be above suspicion]	
2.	<i>Mathew Z Pulikunnel v. Chief Justice of India</i> , WP(C) NO. 17654 OF 2021 [If it is held that a party who is directly or indirectly connected with a dispute decided by a Judge can approach the Court in a proceedings under Article 226 of the Constitution seeking direction on a complaint lodged against the Judge concerning the decision taken by him alleging that the same is not one conforming to the Restatement of Values of Judicial Life, there cannot be any doubt that the same will have a deleterious effect on the institution.]	
3.	<i>Sadhna Chaudhary v. State of Uttar Pradesh</i> (2020) SCC Online 307 [Judicial officers must aspire and adhere to a higher standard of honesty, integrity and Probity]	
4.	<i>Shrirang Yadavrao Waghmare v. State of Maharashtra</i> , (2019) 9 SCC 144 [The first and foremost quality required in a Judge is integrity. The need of integrity in the judiciary is much higher than in other institutions.	

The judiciary is an institution whose foundations are based on honesty and integrity. It is, therefore, necessary that judicial officers should possess the sterling quality of integrity]

5. **Registrar General, Patna High Court v. Pandey Gajendra Prasad**, 2012 STPL(Web) 305 SC [*There is no gainsaying that while it is imperative for the High Court to protect honest and upright judicial officers against motivated and concocted allegations, it is equally necessary for the High Court not to ignore or condone any dishonest deed on the part of any judicial officer]*
6. **Rajendra Singh Verma (Dead) Through LRs. v. Lieutenant Governor (NCT of Delhi)**, (2011) 10 SCC 1 [*In case where the Full Court of the High Court recommends compulsory retirement of an officer, the High Court on the judicial side has to exercise great caution and circumspection in setting aside that order because it is a complement of all the Judges of the High Court who go into the question and it is possible that in all cases evidence would not be forthcoming about integrity doubtful of a judicial officer]*
7. **Tarak Singh v. Jyoti Basu**, (2005)1 SCC 201 [*There is nothing wrong in a Judge having an ambition to achieve something, but if the ambition to achieve is likely to cause a compromise with his divine judicial duty, better not to pursue it. Because, if a Judge is too ambitious to achieve something materially, he becomes timid. When he becomes timid there will be a tendency to make a compromise between his divine duty and his personal interest. There will be a conflict between interest and duty]*

[“Integrity is the hallmark of judicial discipline, apart from others. It is high time the judiciary took utmost care to see that the temple of justice does not crack from inside, which will lead to a catastrophe in the judicial-delivery system resulting in the failure of public confidence in the system. It must be remembered that woodpeckers inside pose a larger threat than the storm outside.”]
8. **High Court of Judicature at Bombay v. Shashikant S. Patil**, (2000) 1 SCC 416 [*Honesty and integrity are the hallmarks of judicial probity. Dishonesty and lack of integrity are hence the basic elements of misconduct as far as a Judicial Officer is concerned]*
9. **Union of India v. K.K. Dhawan** (1993) AIR 1478 [*The judicial officer, if acts negligently or recklessly or attempts to confer undue favour on a person or takes a decision which is actuated by corrupt motive, then he is not acting as a judge]*
10. **High Court of Judicature at Rajasthan v. Ramesh Chand Paliwal**, (1998) 3 SCC 72 [*Judges have been described as ‘hermits’, further reminding that, “they have to live and behave like hermits, who have no desire or aspiration, having shed it through penance. Their mission is to supply light and not heat]*
11. **High Court of Judicature at Bombay v. Uday Singh**, (1997) 5 SCC 129 [*Maintenance of discipline in the judicial service is a paramount matter. Acceptability of the judgment depends upon the credibility of the conduct, honesty, integrity and character of the officer. The confidence of the litigating public gets affected or shaken by lack of integrity and character of Judicial Officer]*
12. **Daya Shankar v. High Court of Allahabad**, (1987) 3 SCC 1 [*Judicial officers cannot have two standards, one in the court and another outside the court. They must have only one standard of rectitude, honesty and integrity. They cannot act even remotely unworthy of the office they occupy]*
13. **State vs. Chief Editor, Manabjain and others**, LEX/BDHC/0113/2002 (**Supreme Court of Bangladesh**), [*To safeguard the position Court suggested suggested to follow the self-restrained path of social isolation. The Supreme Court held that Judges should keep the confidence of the public in the judiciary by laying down certain key points.*]
14. **C. Ravichandran Iyer v. Justice A.M. Bhattacharjee & Ors.** (1995) 5 SCC 457 [*Judicial office is essentially a public trust. Society is, therefore, entitled to except that a Judge must be a man of high integrity, honesty and required to have moral vigour, ethical firmness and impervious to corrupt or venial influences. He is required to*

keep most exacting standards of propriety in judicial conduct. Any conduct which tends to undermine public confidence in the integrity and impartiality of the court would be deleterious to the efficacy of judicial process]

15. **K.P. Singh vs. High Court of H.P. & ors.** 2011(3)KLJ11 [A judge is judged not only by the quality of his judgments, but also by the quality and purity of his character and the measurable standard of that character is impeccable integrity reflected transparently in his personal life as well. One who corrects corruption should be incorruptible. That is the high standard, the public has set in such high offices of institutional integrity. Therefore, any departure from the pristine codes and values of discipline and disciplined conduct on the part of the judicial officers will have to be viewed very seriously lest the very foundation of the system would be shaken and, if so, that will be the death knell of democracy...]
16. **R.C. Chandel v. High Court of M.P.**, (2012) 8 SCC 58 [There can be no manner of doubt that a Judge must decide the case only on the basis of the facts on record and the law applicable to the case. If a Judge decides a case for any extraneous reasons then he is not performing his duty in accordance with law. 10. In our view the word “gratification” does not only mean monetary gratification. Gratification can be of various types. It can be gratification of money, gratification of power, gratification of lust etc., etc.]
17. **All India Judges' Association v. Union of India**, 1992 AIR 165 [Para 61 – It is time we mention about society's expectation from the Judicial Officers. A judge ought to be wise enough to know that he is fallible and, therefore, even ready to learn and be courageous enough to acknowledge his errors. The conduct of every judicial officer should be above reproach. He should be conscientious, studious, thorough, courteous, 'patient, punctual, just, impartial, fearless of public clamor, regardless of public praise, and indifferent to private, political or partisan influences; he should administer justice according to law, and deal with his appointment as a public trust; he should not allow other affairs or his private interests to interfere with the prompt and proper performance of his judicial duties, nor should he administer the office for the purpose of advancing his personal ambitions or increasing his popularity.]
18. **Rajesh Kohli vs. High Court of J. and K. and Anr.** (2010)12SCC783 [Upright and honest judicial officers are needed not only to bolster the image of the judiciary in the eyes of litigants, but also to sustain the culture of integrity, virtue and ethics among judges. The public's perception of the judiciary matters just as much as its role in dispute resolution. The credibility of the entire judiciary is often undermined by isolated acts of transgression by a few members of the Bench, and therefore it is imperative to maintain a high benchmark of honesty, accountability and good conduct.]

SESSION 2

ART, CRAFT AND SCIENCE OF WRITING JUDGMENTS

1.	Justice G. Raghuram, <i>Art of Judgment</i> , Delivered at the National Judicial Academy India	95
2.	Justice R. V. Raveendran, <i>Rendering Decisions- Basics for New Judges(Decision-Making & Judgment-Writing)</i> in ANOMALIES IN LAW & JUSTICE: WRITINGS RELATED TO LAW & JUSTICE, EBC Publishing (P) Ltd. (2021) pp. 319-361	105
3.	Justice Michael Kirby CMG, <i>The Australian Law Journal on the Writing of Judgments</i>	129
4.	Supreme Court of India, “ <i>Handbook on Combating Gender Stereotypes</i> ” (2023)	151
5.	Atrey, S., “ <i>Lifting as We Climb: Recognizing Intersectional Gender Violence in Law</i> ”, Oñati Socio-legal Series [online], 5 (6), 1512-1535 (2015).	182

Additional Reading:

- Andrew Goodman, *The Use of Language in Judgements* in HOW JUDGES DECIDE CASES: READING, WRITING AND ANALYSING JUDGMENTS, Wildy, Simmonds & Hill Publishing, Second Edition, pp. 68-114

JUDGMENTS

(Judgments mentioned below include citations and short notes for reference only. Refer full judgment for conclusive opinion)

1. **SBI & Another v. Ajay Kumar Sood**, (2022) SCC OnLine 1067 [*The judgment replicates the individuality of the judge and therefore it is indispensable that it should be written with care and caution. The reasoning in the judgment should be intelligible and logical. Clarity and precision should be the goal. All conclusions should be supported by reasons duly recorded. The findings and directions should be precise and specific. Writing judgments is an art, though it involves skillful application of law and logic.*]
2. **Aparna Bhat v. State of M.P.** (2021) SCC OnLine SC 230 [*Court to make sure survivor can rely on their impartiality and neutrality. Sensitivity in judicial approach/language/reasoning. Sensitivity to the concerns of survivors of sexual offences. Embargo on orders that reflect adversely on the judicial system/undermining the guarantee to fair justice. Removing gender bias.*]
3. **Shakuntala Shukla v. State of Uttar Pradesh**, 2021 SCC OnLine SC 672 [*“Judgment” means a judicial opinion which tells the story of the case; what the case is about; how the court is resolving the case and why. ... It is also defined as the decision or the sentence of a court in a legal proceeding along with the reasoning of a judge which leads him to his decision. ... It is not adequate that a decision is accurate, it must also be reasonable, logical and easily comprehensible. The judicial opinion is to be written in such a way that it elucidates in a convincing manner and proves the fact that the verdict is righteous and judicious. What the court says, and how it says it, is equally important as what the court decides. ... The judgment replicates the individuality of the judge and therefore it is indispensable that it should be written with care and caution. The reasoning in the judgment should be intelligible and logical. Clarity and precision should be the goal. All conclusions should be supported by reasons duly recorded.*] (Refer Para 9)
4. **Ajit Mohan v. Legislative Assembly Delhi**, 2021 SCC OnLine SC 495 [*it is the need of the hour to write clear and short judgments which the litigant can understand. The Wren & Martin principles of precis writing must be adopted.*]
5. **Surjeet Singh v. Sadhu Singh**, (2019) 2 SCC 396 [*... there was no need to cite several decisions and that too in detail. Brevity being a virtue, it must be observed as far as possible while expressing an opinion.*]
6. **Nipun Saxena v. Union of India**, (2019) 2 SCC 703, [*Keeping in view the social object of preventing the victims or ostracising of victims, it would be appropriate that in judgments of all the courts i.e. trial courts, High Courts and the Supreme Court the name of the victim should not be indicated. This has been repeated in a large number of cases and we need not refer to all.*]
7. **Kanailal v. Ram Chandra Singh**, (2018) 13 SCC 715 [*Reasons are live links between the mind of the decision-taker to the controversy in question and the decision or conclusion arrived; Objectivity in reasons; Adjudging validity of decision; Right to reason is indispensable part of sound judicial system; Salutory requirement of natural justice*]
8. **Joint Commissioner of Income Tax v. Saheli Leasing & Industries Ltd.**, (2010) 6 SCC 384 [*State only what are germane to the facts of the case; Must have correlation with applicable law and facts; Ratio decidendi should be clearly spelt out; Go through the draft thoroughly; Sustained chronology in judgment – perfect sequence of events; Citations should afford clarity rather than confusion; Pronounce judgment at the earliest*]
9. **Board of Trustees of Martyrs Memorial Trust v. Union of India**, (2012) 10 SCC 734 [*Brevity in judgment writing; Due application of mind; Clarity of reasoning; Focussed consideration; Examination of every matter with seriousness; Sustainable decision*]
10. **Reliance Airport Developers v. Airport Authority of India and Ors**, (2006) 10 SCC 1 [*Judicial Discretion – Parameters to be followed while exercising Discretion - Relevant Paras 26-35*]

11. **B (A Child)(Adequacy of Reasons)**, [2022] EWCA Civ 407 (**Lord Justice Peter Jackson & Lady Justice Nicola Davies**) (Relevant Paras 59 and 60) *Judgments reflect the thinking of the individual judge and there is no room for dogma, but in my view a good judgment will in its own way, at some point and as concisely as possible: state the background facts; identify the issue(s) that must be decided; articulate the legal test(s) that must be applied; note the key features of the written and oral evidence, bearing in mind that a judgment is not a summing-up in which every possibly relevant piece of evidence must be mentioned; record each party's core case on the issues; make findings of fact about any disputed matters that are significant for the decision; evaluate the evidence as a whole, making clear why more or less weight is to be given to key features relied on by the parties; give the court's decision, explaining why one outcome has been selected in preference to other possible outcomes.*

The last two processes – evaluation and explanation – are the critical elements of any judgment. As the culmination of a process of reasoning, they tend to come at the end, but they are the engine that drives the decision, and as such they need the most attention. A judgment that is weighed down with superfluous citation of authority or lengthy recitation of inessential evidence at the expense of this essential reasoning may well be flawed. At the same time, a judgment that does not fairly set out a party's case and give adequate reasons for rejecting it is bound to be vulnerable.

SESSION 3 ALTERNATIVES TO CONVENTIONAL ADJUDICATORY SYSTEM

1.	Justice R.V. Raveendran, Mediation and Conciliation – Their Importance and Relevance , Anomalies in Law & Justice, EBC Publication, 1 st Edition (2021)	207
2.	Mediation Training Manual of India , Mediation and Conciliation Project Committee, Supreme Court of India	243
3.	Anand Kumar Singh, Arbitrability of Disputes in India: The Changing Landscape of 'Exclusive Jurisdiction' Discourse , 7.1 NLUJ LR (2020) 70	326
4.	Alternative Dispute Resolution—An Overview Mediation, Conciliation And Arbitration – A Comparative Analysis in Justice R S Bachawat's LAW OF ARBITRATION & CONCILIATION, 6th ed Lexis Nexis India	346

JUDGMENTS

(Judgments mentioned below include citations and short notes for reference only. Refer full judgment for conclusive opinion)

- Essar House (P) Ltd. v. Arcellor Mittal Nippon Steel India Ltd.**, 2022 SCC OnLine SC 1219 [The Supreme Court observed that a court exercising power under Section 9 of the Arbitration and Conciliation Act is not strictly bound by provisions of CPC and should not withhold relief on mere technicality. The Court ruled that proof of actual attempts to deal with, remove or dispose of the property with a view to defeat or delay the realisation of an impending Arbitral Award is not imperative for grant of relief under Section 9, and that a strong possibility of diminution of assets would suffice]
- National Highways Authority of India v. P. Nagaraju**, 2022 SCC OnLine SC 864 [The Supreme Court observed that, under Section 34 or 37 of Arbitration and Conciliation Act, a Court cannot modify the award passed by the Arbitrator. The option would be to set aside the award and remand the matter.]
- Indian Oil Corpn. Ltd. v. NCC Ltd.**, 2022 SCC OnLine SC 896 [Despite the insertion of Section 11(6A) in the Arbitration and Conciliation Act 1996, the Courts are not denuded of the power to examine the issue of non-arbitrability and jurisdiction at the stage of considering application of appointment of arbitrators under Section 11, held the Supreme Court recently. The Supreme Court held that, at the stage of deciding application for appointment of

arbitrator, a Court can consider whether the dispute falls within the excepted clause. The Court observed that the question of jurisdiction and non-arbitrability can be considered by a Court at the stage of deciding an application under Section 11 of Arbitration and Conciliation Act if the facts are very clear and glaring.]

4. **I-Pay Clearing Services (P) Ltd. v. ICICI Bank Ltd.**, (2022) 3 SCC 121 [The Supreme Court held that a court cannot remit a matter to the arbitrator on an application under Section 34(4) when the arbitrator has not given any findings on an issue. The Court differentiated between 'reasons' and 'finding' and held that it is only to fill the gaps in the reasoning that the matter would be remitted to the arbitrator. When there are no findings on the given issue, the matter cannot be remitted as that in itself is a ground to set aside the award. It further held that the power under Section 34(4) is discretionary.]
5. **Mutha Construction v. Strategic Brand Solutions Pvt Ltd**, SLP (Civil) No. 1105 of 2022 [The Supreme Court held that after setting aside an award, the court can remit the matter to the same arbitrator for a fresh decision, provided that the parties involved mutually agree to the same].
6. **State of Chhattisgarh v. SAL Udyog (P) Ltd.**, (2022) 2 SCC 275 [Held that a party is not barred from raising additional grounds for setting aside an arbitration award under section 37 of the Arbitration and Conciliation Act, 1996, merely because the said ground was not raised before the district court to set aside an arbitration award under S. 34 of the A&C Act.]
7. **Project Director, National Highways No. 45 E and 220 National Highways Authority of India v. M. Hakeem and Another**, (2021) 9 SCC 1 [The issue for determination before the Supreme Court was: Whether the power of a Court under Section 34 of the A&C Act, 1996 to "set aside" an award of an arbitrator includes the power to modify such an award? **Held:** there can be no doubt that given the law laid down by the Supreme Court, Section 34 of the A&C Act, 1996 cannot be held to include within it a power to modify an award. To state that the judicial trend appears to favour an interpretation that would read into Section 34 of the A&C Act, 1996 a power to modify, revise or vary the award would be to ignore the previous law contained in the Arbitration Act, 1940; as also to ignore the fact that the A&C Act, 1996 was enacted based on the UNCITRAL Model Law on International Commercial Arbitration, 1985 which makes it clear that, given the limited judicial interference on extremely limited grounds not dealing with the merits of an award, the "limited remedy" under Section 34 of the A&C Act, 1996 is coterminous with the "limited right", namely, either to set aside an award or remand the matter under the circumstances mentioned in Section 34 of the A&C Act, 1996.]
8. **Sanjiv Prakash v. Seema Kukreja And Ors.**, (2021) 9 SCC 732 [Court held that Section 11 stage cannot enter into a mini trial or elaborate review of the facts and law which would usurp the jurisdiction of the arbitral tribunal]
9. **Chintels India Ltd. v. Bhayana Builders Pvt. Ltd.**, (2021) SCC OnLine SC 80 [An order refusing to condone the delay under Section 34(3) of the Arbitration and Conciliation Act, 1996 is appealable under Section 37 of the Act.]
10. **Vidya Drolia v. Durga Trading Corpn.**, (2021) 2 SCC 1 [Court authoritatively expounded on the scope of the jurisdiction of a Court, examining and application under Section 8 of the 1996 Act.]
11. **Delhi Airport Metro Express (P) Ltd. v. DMRC**, (2021) 1 SCC 131 [There is a disturbing tendency of courts setting aside arbitral awards, after dissecting and reassessing factual aspects of the cases to come to a conclusion that the award needs intervention and thereafter, dubbing the award to be vitiated by either perversity or patent illegality, apart from the other grounds available for annulment of the award.]
12. **BCCI v. Kochi Cricket (P) Ltd.**, (2018) 6 SCC 287 [**Arbitration and Conciliation Act, 1996 — Ss. 36 and 34 (before and after amendment of S. 36 in 2015):** S. 36 as amended in 2015, applies to pending S. 34 applications even in arbitrations commenced prior to 23-10-2015 i.e. date of coming into force of Amendment Act, 2015, as S. 36 is a procedural provision. Rule of automatic stay of operation of award on filing of S. 34 application, even in absence of an order of stay/imposition of conditions by court as per unamended S. 36, held, is no longer applicable.]
13. **Ananthesh Bhakta & Ors. vs. Nayana S. Bhakta**, (2017) 5 SCC 185 [The court has construed section 8(2) providing that the Judicial authorities shall not entertain the application or referring the disputes to arbitration unless the said application is accompanied by the original arbitration agreement or duly certified copy thereof and held that section

8(2) has to be interpreted to mean that the court shall not consider any application filed by the party under section 8(1) unless it is accompanied by the original arbitration agreement or duly certified copy thereof]

14. **State of M.P. v. Madanlal** (2015) 7 SCC 681 [The Court held that there can be no compromise between the accused and the rape victim. Further the court iterated that there can be no liberal approach just because there is a compromise or if there is a settlement between the parties.]
15. **Sundaram Finance Ltd. v. T. Thankam**, (2015) 14 SCC 444 [There can be no quarrel with the proposition that while considering an application for the parties to a dispute to be referred to arbitration on the ground that it is subject to an arbitration agreement in terms of Section 8(1), the judicial authority exercises the jurisdiction conferred upon it by the Arbitration and Conciliation Act, 1996 and not the jurisdiction it exercises under the law whereunder it has been established]
16. **Mr. Vikram Bakshi and Ors. v. Ms. Sonika Khosla (Dead) by L.Rs.** (2014) 15 SCC 80 [The court dealt with role of mediation in a dispute under section 397 and 398 of the Companies Act has been examined]
17. **K. Srinivas Rao v D.A. Deepa**, (2013) 5 SCC 226 [The Court emphasizes relevance of mediation in matrimonial disputes including complaints u/s 406/498a IPC. It was observed that purely a civil matrimonial dispute can be amicably settled by directing the parties to explore the possibility of settlement through mediation. The courts have always adopted a positive approach and encouraged settlement of matrimonial disputes and discouraged their escalation.]
18. **Afcon Infrastructure Ltd. And Anr. v. Cherian Varkey Construction Co. (P) Ltd. And Ors.** 2010 (8) SCC 24 [the court dealt with the question of whether the court, in the absence of an arbitration agreement between the parties, was competent to refer the parties to arbitration under Section 89 of the Code of Civil Procedure 1908. After an elaborate discussion on the scheme of alternate dispute resolution enshrined within the code, the court held that unless both parties consent to such referral, the courts cannot refer the parties to arbitration under Section 89 of the code.]
19. **Salem Advocate Bar Association, Tamil Nadu v. Union of India**; 2005 (6) SCC 344 [The apex court purposively reinterpreted S. 89, CPC to reduce anomalies. For instance, the words shall and may in S. 89, CPC and Rules IA-IC, Order X, CPC were read harmoniously and it was determined that may was intended to refer to only the reformulation of terms of a potential settlement by the court. There was also an attempt to resolve the issue created by inclusion of the phrase "terms of settlement" in the section. The section mandates formulation of settlement at the pleadings stages. However, this is not feasible since, firstly, there would not have been adequate application of mind of the judge at the pleadings stage, and, secondly, determining terms of settlement is the domain of the ADR forum. So, a plain reading of the section creates the futile situation wherein courts are expected to do the ADR forums job before referring a matter to it. In light of the above, "terms of settlement" was interpreted as summary of disputes. The court further replaced the definition of mediation in the section with that suggested in the model mediation rules.]

SESSION 4 ELECTRONIC EVIDENCE: NEW HORIZONS, COLLECTION, PRESERVATION AND APPRECIATION

1.	Justice Raja Vijayaraghavan V., Electronic Evidence , Presented during Workshop on Adjudicating Terrorism Cases at the National Judicial Academy, Bhopal-January 24, (2021)	364
2.	Hasit B. Seth, Impossibility Exception to the S.65-B (4) Electronic Evidence Certificate (June 1, 2021) . Available at SSRN: https://ssrn.com/abstract=3859581	381
3.	Dr. Swati Mehta, Cyber Forensics and Admissibility of Digital Evidence , (2011) 5 SCC J-54	391
4.	Standard Operating Procedures for the collection, analysis and presentation of electronic evidence , Prepared by Cybercrime Programme Office of the Council of Europe (C-PROC) – 12 th September 2019	409
5.	Sake Jyothi, Electronic Evidence-An Overview , (2024)	446

JUDGMENTS

(Judgments mentioned below include citations and short notes for reference only. Refer full judgment for conclusive opinion)

1. **Ravinder Singh Alias Kaku v. State of Punjab** (2022) 7 SCC 581 [Indian Evidence Act, 1872; Section 65B(4) - Certificate under Section 65B(4) is a mandatory requirement for production of electronic evidence - Oral evidence in the place of such certificate cannot possibly suffice. Criminal Trial - Circumstantial Evidence - Where a case rests squarely on circumstantial evidence, the inference of guilt can be justified only when all the incriminating facts and circumstances are found to be incompatible with the innocence of the accused. The circumstances from which an inference as to the guilt of the accused is drawn have to be proved beyond reasonable doubt and have to be shown to be closely connected with the principal fact sought to be inferred from those circumstances.]
2. **Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal & Ors**, (2020) 7 SCC 1 [Held that the certificate required under Section 65B(4) is a condition precedent to the admissibility of evidence by way of electronic record, as correctly held in by the 3-judge bench in **Anvar P.V. v. P.K. Basheer**, (2014) 10 SCC 473, and incorrectly “clarified” by a division bench in **Shafhi Mohammad v. State of Himachal Pradesh**, (2018) 2 SCC 801. The Court further clarified that the required certificate under Section 65B (4) is unnecessary if the original document itself is produced. The Court was hearing the reference from the July 26, 2019 order where, after quoting **Anvar P.V. v. P.K. Basheer**, (2014) 10 SCC 473 (a three Judge Bench decision of this Court), it was found that a Division Bench judgment in **Shafhi Mohammad v. State of Himachal Pradesh**, (2018) 2 SCC 801 may need reconsideration by a Bench of a larger strength. The Division bench, in the **Shafhi Mohammad** judgment, had “clarified” that the requirement of a certificate under Section 64B(4), being procedural, can be relaxed by the Court wherever the interest of justice so justifies, and one circumstance in which the interest of justice so justifies would be where the electronic device is produced by a party who is not in possession of such device, as a result of which such party would not be in a position to secure the requisite certificate.
3. **P. Gopalkrishnan v. State of Kerala and Anr.**, (2020) 9 SCC 161 [The contents of the memory card/pen drive being electronic record must be regarded as a document. If the prosecution was relying on the same, ordinarily, the Accused must be given a cloned copy thereof to enable him/her to present an effective defence during the trial. However, in cases involving issues such as of privacy of the complainant/witness or his/her identity, the Court may be justified in providing only inspection thereof to the Accused and his/her lawyer or expert for presenting effective defence during the trial. The court may issue suitable directions to balance the interests of both sides.]
4. **State by Karnataka Lokayukta, Police Station, Bengaluru v. M.R. Hiremath**, (2019) 7 SCC 515 [Requirement of producing a certificate arises, when the electronic record is sought to be used as evidence]
5. **Shamsher Singh Verma v. State of Haryana**, (2016) 15 SCC 485 [The object of Section 294 Code of Criminal Procedure is to accelerate pace of trial by avoiding the time being wasted by the parties in recording the unnecessary evidence. Where genuineness of any document is admitted, or its formal proof is dispensed with, the same may be read in evidence. In view of the definition of 'document' in Evidence Act, and the law laid down by this Court, the Court held that the compact disc is also a document. It is not necessary for the court to obtain admission or denial on a document Under Sub-section (1) to Section 294 Code of Criminal Procedure personally from the accused or complainant or the witness. The endorsement of admission or denial made by the counsel for defence, on the document filed by the prosecution or on the application/report with which same is filed, is sufficient compliance of Section 294 Code of Criminal Procedure. Similarly on a document filed by the defence, endorsement of admission or denial by the public prosecutor is sufficient and defence will have to prove the document if not admitted by the prosecution. In case it is admitted, it need not be formally proved, and can be read in evidence. In a complaint case such an endorsement can be made by the counsel for the complainant in respect of document filed by the defence.
6. **Anvar PV v. P.K. Basheer and Ors.**, (2014) 10 SCC 473 [The Court held that for any electronic evidence to be admissible in its secondary form, it is necessary to meet the mandatory requirements of Section 65-B, which includes giving a certificate as per terms of Section 65-B (4), at the time of proving the record and not anytime later, failing which the electronic record will be considered inadmissible.]

7. **Gajraj v. State (NCT of Delhi)**, (2011) 10 SCC 675 [*The court observed that the IEMI number of mobile phone (sim) registered in the name of a person being evidence of a conclusive nature, it cannot be discarded on the basis of minor discrepancies especially when there is serious discrepancy in oral evidence.*]
8. **Virendra Khanna v. State of Karnataka**, 2021 SCC OnLine Kar 5032 [*Suo moto order or Direction by a Court to Share Passwords, Passcodes, Biometrics*]
9. **Rakesh Shetty v. State of Karnataka**, 2020 SCC OnLine Kar 4638 [*whether the investigating agency can retain the user name and password of social media/digital platform like Facebook and YouTube pending investigation?*]

SESSION 5

SENTENCING PROCEDURE: ISSUES & CHALLENGES

1.	<p>Prof. A Lakshminath, SENTENCING JURISPRUDENCE AN INDIAN PERSPECTIVE, Thomson Reuters, Legal (1st Edition, 2018) (excerpts)</p> <ul style="list-style-type: none"> • <i>Punishment – Philosophical Justification</i>, pp. 10-28 • <i>Sentencing Principles</i>, pp. 29-65 • <i>Sentencing Court Practices</i>, pp. 66-102 	468
2.	<p>Dr. Humayun Rasheed Khan, CRIME, PUNISHMENT AND DUE SENTENCE, Lexis Nexis (2024)</p> <ul style="list-style-type: none"> • <i>The Purpose of Sentence: From Retribution to Reformation</i>, pp. 42-92 • <i>Age of Reformation, Capital Punishment and Sentencing Approach in Murder Trials</i>, pp. 258-303 	567

JUDGMENTS

(Judgments mentioned below include citations and short notes for reference only. Refer full judgment for conclusive opinion)

1. **Sunita Devi v. The State of Bihar & Anr., 2024 INSC 448** The Supreme Court recommended the Department of Justice, Ministry of Law and Justice, Government of India, to consider introducing a comprehensive policy, possibly by way of getting an appropriate report from a duly constituted Sentencing Commission consisting of experts in different fields for the purpose of having a distinct sentencing policy.
2. **Baba Natarajan Prasad v. M. Revathi, 2024 INSC 523** Non-prescribing of the minimum sentence would not permit the courts to impose a flea-bite sentence without looking into the nature of the offence, circumstances under which it was committed, degree of deliberation shown by the offender, antecedents of the offender up to the time of sentence, etc. In other words, the Court stated that though the imposition of a sentence falls within the realm of judicial discretion, the imposition of a sentence must be in tune with the rule of proportionality with the nature of the offence.
3. **Shiva Kumar alias Shiva alias Shivamurthy v. State of Karnataka, 2023 SCC OnLine SC 345** The court held that even if the case does not fall within the category of "rarest of the rare" case so as to warrant death penalty, a Constitutional Court can award fixed-term life sentence. The Court noted that as per settled position of law, when an offender is sentenced to undergo imprisonment for life, the incarceration can continue till the end of the life of the accused. However, this is subject to the grant of remission under the Code of Criminal Procedure.
4. **In re: Framing Guidelines Regarding Potential Mitigating Circumstances to be Considered while Imposing Death Sentences, 2022 SCC OnLine SC 1246** The court is of the opinion that it is necessary to have clarity in the

matter to ensure a uniform approach on the question of granting real and meaningful opportunity, as opposed to a formal hearing, to the accused/convict, on the issue of sentence.

5. ***Jaswinder Singh v. Navjot Singh Sidhu, (2022) 7 SCC 628*** An important aspect to be kept in mind is that any undue sympathy to impose inadequate sentence would do more harm to justice system and undermine the public confidence in the efficacy of law. The society cannot long endure under serious threats and if the courts do not protect the injured, the injured would then resort to private vengeance and, therefore, it is the duty of every court to award proper sentence having regard to the nature of the offence and the manner in which it was executed or committed. It has, thus, been observed that the punishment to be awarded for a crime must not be irrelevant but it should conform to and be consistent with the atrocity and brutality with which the crime has been perpetrated.
6. ***Saifur @ Saifur Rehman Ansari v. State of Rajasthan, D.B. Criminal Death Reference No. 2/2020*** Material witnesses required to unfold the events were withheld and apparent manipulations and fabrications have been done during the investigation. This case is a classic example of institutional failure resulting in botched/flawed/shoddy investigation. We fear this isn't the first case to suffer due to failure of investigation agencies and if things are allowed to continue the way they are, this certainly won't be the last case in which administration of justice is affected due to shoddy investigation.
7. ***State of Madhya Pradesh v. Nandu, Criminal Appeal No. 1356 of 2022*** The punishment for murder under Section 302 IPC shall be death or imprisonment for life and fine. Therefore, the minimum sentence provided for the offence punishable under Section 302 IPC would be imprisonment for life and fine. There cannot be any sentence/punishment less than imprisonment for life, if an accused is convicted for the offence punishable under Section 302 IPC. Any punishment less than the imprisonment for life for the offence punishable under Section 302 would be contrary to Section 302 IPC.
8. ***Manoj v. State of M.P., 2021 SCC OnLine SC 3219*** The Court opined that the recent trend to call for a Probation Officer's Report, is in fact a desperate attempt by the courts at the appellate stage, to obtain information on the accused. However, this too is too little, too late, and only offers a peek into the circumstances of the accused after conviction. Therefore, the Court made it mandatory for trial courts to call for psychiatric and psychological evaluation reports of the accused before awarding capital punishment. The Court observed, "The unfortunate reality is that in the absence of well-documented mitigating circumstances at the trial level, the aggravating circumstances seem far more compelling, or overwhelming, rendering the sentencing court prone to imposing the death penalty, on the basis of an incomplete, and hence, incorrect application of the Bachan Singh test.
9. ***Dattaraya v. State of Maharashtra (2020) 14 SCC 290*** The court observed, that for effective hearing under Section 235(2) of the Code of Criminal Procedure, the suggestion that the court intends to impose death penalty should specifically be made to the accused, to enable the accused to make an effective representation against death sentence, by placing mitigating circumstances before the Court.
10. ***Surinder Singh v. State, 2021 SCC OnLine SC 1135*** The Court has explicitly ruled out the practice of awarding disproportionate sentences, especially those that showcase undue leniency, for it would undermine the public confidence in efficacy of law." The awarding of just and proportionate sentence remains the solemn duty of the Courts and they should not be swayed by non-relevant factors while deciding the quantum of sentence. Naturally,

what factors should be considered as ‘relevant’ or ‘non-relevant’ will depend on the facts and circumstances of each case, and no straight jacket formula can be laid down for the same.

11. *Rajendra Pralhadrao Wasnik v. State of Maharashtra, (2019) 12 SCC 460* Adequate opportunity to produce relevant material on the question of death sentence shall be provided to the accused by the trial court.

12. *State of Madhya Pradesh v. Vikram Das, AIR 2019 SC 835* The Court cannot impose less than minimum sentence contemplated by the statute. Even the provisions of Article 142 of the Constitution of India cannot be resorted to impose sentence less than the minimum sentence provided by law.

13. *X v. State of Maharashtra, (2019) 7 SCC 1* The Court extensively considered the precedents on the question of sentencing, and concluded the position of law as follows:

- That the term “hearing” occurring under Section 235(2) requires the accused and prosecution at their option, to be given a meaningful opportunity.
- Meaningful hearing under Section 235(2) CrPC, in the usual course, is not conditional upon time or number of days granted for the same. It is to be measured qualitatively and not quantitatively.
- The trial court needs to comply with the mandate of Section 235(2) CrPC with best efforts.
- Non-compliance can be rectified at the appellate stage as well, by providing meaningful opportunity.
- If such an opportunity is not provided by the trial court, the appellate court needs to balance various considerations and either afford an opportunity before itself or remand back to the trial court, in appropriate case, for fresh consideration.
- However, the accused need to satisfy the appellate courts, inter alia by pleading on the grounds as to existence of mitigating circumstances, for its further consideration.
- Being aware of certain harsh realities such as long protracted delays or jail appeals through legal aid, etc., wherein the appellate court, in appropriate cases, may take recourse of independent enquiries on relevant facts ordered by the court itself.
- If no such grounds are brought by the accused before the appellate courts, then it is not obligated to take recourse under Section 235(2) CrPC.”

14. *Mohd. Hashim v. State of UP, (2017) 2 SCC 198* Where legislation prescribes minimum sentence without any discretion to the court, such sentence cannot be reduced by the court. Imposition of minimum sentence in such cases, be it imprisonment or fine, is mandatory. However, there may be cases where legislation prescribes a minimum sentence but grants discretion to the court to award a lower sentence or not to award a sentence of imprisonment, which discretion includes discretion not to send the accused to prison. In such latter cases, the minimum prescribed sentence cannot be construed as a minimum sentence.

15. *K.P. Singh v. State of NCT of Delhi, 2015 SCC OnLine SC 858* The courts have not attempted to exhaustively enumerate the considerations that go into determination of the quantum of sentence nor have the Courts attempted to lay down the weight that each one of these considerations carry because any such exercise is neither easy nor advisable given the myriad situations in which the question may fall for determination. Laying down some of the considerations kept in mind by the Courts while exercising the discretion in awarding sentence, the Court said that the reformatory, deterrent and punitive

aspects of punishment, delay in the conclusion of the trial and legal proceedings, the age of the accused, his physical/health condition, the nature of the offence, the weapon used and in the cases of illegal gratification the amount of bribe, loss of job and family obligations of accused are some of the considerations that weigh heavily with the Courts while determining the sentence to be awarded.

- 16. *State of M.P. v. Bablu* [(2014) 9 SCC 281 : (2014) 6 SCC (Cri) 1]** The Court reiterated the settled proposition of law that one of the prime objectives of criminal law is the imposition of adequate, just, proportionate punishment which is commensurate with the gravity, nature of crime and the manner in which the offence is committed. One should keep in mind the social interest and conscience of the society while considering the determinative factor of sentence with gravity of crime. The punishment should not be so lenient that it shocks the conscience of the society. It is, therefore, the solemn duty of the court to strike a proper balance while awarding the sentence as awarding lesser sentence encourages any criminal and, as a result of the same, the society suffers
- 17. *Sunil Dutt Sharma v. State (Govt. of NCT of Delhi)*, (2014) 4 SCC 375** The power and authority conferred by use of the different expressions noticed above indicate the enormous discretion vested in the courts in sentencing an offender who has been found guilty of commission of any particular offence. Nowhere, either in the Penal Code or in any other law in force, any prescription or norm or even guidelines governing the exercise of the vast discretion in the matter of sentencing have been laid down except perhaps, Section 354(3) of the Code of Criminal Procedure, 1973 which, inter alia, requires the judgment of a court to state the reasons for the sentence awarded when the punishment prescribed is imprisonment for a term of years. In the above situation, naturally, the sentencing power has been a matter of serious academic and judicial debate to discern an objective and rational basis for the exercise of the power and to evolve sound jurisprudential principles governing the exercise thereof.
- 18. *Sumer Singh v. Surajbhan Singh*, 2014 7 SCC 323** It is the duty of the court to impose adequate sentence, for one of the purposes of imposition of requisite sentence is protection of the society and a legitimate response to the collective conscience. The paramount principle that should be the guiding laser beam is that the punishment should be proportionate. It is the answer of law to the social conscience. In a way, it is an obligation to the society which has reposed faith in the court of law to curtail the evil. While imposing the sentence it is the Court's accountability to remind itself about its role and the reverence for rule of law. It must evince the rationalized judicial discretion and not an individual perception or a moral propensity. The victim, in this case, still cries for justice. We do not think that increase in fine amount or grant of compensation under [the Code](#) would be a justified answer in law. Money cannot be the oasis. It cannot assume the centre stage for all redemption. Interference in manifestly inadequate and unduly lenient sentence is the justifiable warrant, for the Court cannot close its eyes to the agony and anguish of the victim and, eventually, to the cry of the society. Therefore, striking the balance we are disposed to think that the cause of justice would be best subserved if the respondent is sentenced to undergo rigorous imprisonment of two years apart from the fine that has been imposed by the learned trial judge. Before parting with the case we are obliged, nay, painfully constrained to state that it has come to the notice of this Court that in certain heinous crimes or crimes committed in

a brutal manner the High Courts in exercise of the appellate jurisdiction have imposed extremely lenient sentences which shock the conscience.

- 19. *Jasvir Kaur v. State of Punjab*, (2013) 11 SCC 401** The issue of punishment, sentencing of the convicted accused which is at the heart of the administration of criminal justice is both a delicate and difficult task. Unfortunately, however, the question of sentencing does not receive due importance and the requisite application of mind by the courts. In our country, there is very little legislative, judicial or any other kind of guidance available to meaningfully deal with the question of sentencing. The absence of any guidelines makes the task of the court more difficult and casts a heavy responsibility on it to calibrate the due punishment that might be awarded to a convict, taking into consideration all the relevant facts and circumstances.
- 20. *Shanker Kisanrao Khade v. State of Maharashtra* (2013) 5 SCC 546** The court acknowledged that the difficulty in the application of 'rarest of rare' since there is lack of empirical data for making two fold comparison between murder (not attracting death penalty) and murder (attracting penalty).
- 21. *Hazara Singh v. Raj Kumar* (2013) 9 SCC 516** It is the duty of the courts to consider all the relevant factors to impose an appropriate sentence. The legislature has bestowed upon the judiciary this enormous discretion in the sentencing policy, which must be exercised with utmost care and caution. The punishment awarded should be directly proportionate to the nature and the magnitude of the offence. The benchmark of proportionate sentencing can assist the Judges in arriving at a fair and impartial verdict.” The Court further observed that the cardinal principle of sentencing policy is that the sentence imposed on an offender should reflect the crime he has committed and it should be proportionate to the gravity of the offence. This Court has repeatedly stressed the central role of proportionality in sentencing of offenders in numerous cases.”
- 22. *Soman v. State of Kerala*, (2013) 11 SCC 382** Giving punishment to the wrongdoer is at the heart of the criminal justice delivery, but in our country, it is the weakest part of the administration of criminal justice. There are no legislative or judicially laid down guidelines to assist the trial court in meting out the just punishment to the accused facing trial before it after he is held guilty of the charges.
- 23. *Gopal Singh v. State of Uttarakhand*, (2013) 7 SCC 545** Just punishment is the collective cry of the society and while collective cry has to be kept uppermost in mind, simultaneously the principle of proportionality between the crime and punishment cannot be totally brushed aside. Thus, the principle of just punishment is the bedrock of sentencing in respect of a criminal offence. No doubt there cannot be a straitjacket formula nor a solvable theory in mathematical exactitude. An offender cannot be allowed to be treated with leniency solely on the ground of discretion vested in a court.
- 24. *Santosh Kumar Satishbhushan Bariyar v. State of Maharashtra*, (2009) 6 SCC 498** The court had articulated a two-step process to determine whether a case deserves the death sentence – “firstly, that the case belongs to the ‘rarest of rare’ category, and secondly, that the option of life imprisonment would simply not suffice.” Noting that despite over four decades since Bachan Singh’s case there has been little to no policy-driven change, towards formulating a scheme or system that elaborates how mitigating circumstances are to be collected, for the court’s consideration and that scarce information about the accused at the time of sentencing, severely disadvantages the process of considering mitigating

circumstances, the Bench opined, “Therefore, ‘individualised, principled sentencing’ – based on both the crime and criminal, with consideration of whether reform or rehabilitation is achievable, and consequently whether the option of life imprisonment is unquestionably foreclosed – should be the only factor of ‘commonality’ that must be discernible from decisions relating to capital offences

25. ***Sadhupati Nageswara Rao v. State of A.P., (2012) 8 SCC*** The court observed that the courts cannot take lenient view in awarding sentence on the ground of sympathy or delay as the same cannot furnish any ground for reduction of sentence.
26. ***Neel Kumar v. State of Haryana, (2012) 5 SCC 766*** While commuting the awarded death sentence into a sentence of life imprisonment, it has been directed by this Court that convicts therein must serve a minimum of 30 years in jail without remissions, before the consideration of their respective cases for premature release.
27. ***Shivu v. High Court of Karnataka (2007) 4 SCC 713*** The principle of “just deserts” was applied and the death penalty awarded to the convicts was upheld. The circumstances of the convicts were not considered for reducing the death penalty
28. ***Alister Anthony Pareira v. State of Maharashtra, (2012) 2 SCC 648*** The principle of proportionality in sentencing a crime-doer is well entrenched in criminal jurisprudence. As a matter of law, proportion between crime and punishment bears most relevant influence in determination of sentencing the crime-doer. The court has to take into consideration all aspects including social interest and consciousness of the society for award of appropriate sentence.
29. ***State of U.P. v. Sanjay Kumar, (2012) 8 SCC 537*** Sentencing policy is a way to guide judicial discretion in accomplishing particular sentencing. Generally, two criteria, that is, the seriousness of the crime and the criminal history of the accused, are used to prescribe punishment. By introducing more uniformity and consistency into the sentencing process, the objective of the policy, is to make it easier to predict sentencing outcomes. Sentencing policies are needed to address concerns in relation to unfettered judicial discretion and lack of uniform and equal treatment of similarly situated convicts. The principle of proportionality, as followed in various judgments of this Court, prescribes that, the punishments should reflect the gravity of the offence and also the criminal background of the convict. Thus, the graver the offence and the longer the criminal record, the more severe is the punishment to be awarded
30. ***Sangeet v. State of Haryana, AIR 2012 SC 447*** The court expressed reservation regarding inconsistent and incoherent application of sentencing policy with respect to analyzing the aggravating and mitigating circumstances. The court critiqued the process of drawing a balance sheet of aggravating and mitigating circumstances and stated that they cannot be compared with each other as each of the factors are two distinct and different constituents of the incident.
31. ***C. Muniappan v. State of Tamil Nadu, (2010) 9 SCC 567*** Criminal law requires careful adherence to the rule of proportionality in imposing punishment based on the culpability of each type of criminal action, while bearing in mind the societal impact of not awarding just punishment.
32. ***Jameel v. State of U.P., (2010) 12 SCC 532*** Court held that the punishment should reflect the society's cry for justice against the criminals. The general policy which the courts have followed with regard to sentencing is that the punishment must be appropriate and proportional to the gravity of the offence committed. Imposition of appropriate punishment is the manner in which the courts respond to the society's cry for justice against the

criminals. Justice demands that courts should impose punishment befitting the crime so that the courts reflect public abhorrence of the crime.

- 33. *Ahmed Hussein Vali Mohammed Saiyed v. State of Gujarat, (2009) 7 SCC 254*** The object of awarding appropriate sentence should be to protect the society and to deter the criminal from achieving the avowed object to (sic break the) law by imposing appropriate sentence. It is expected that the courts would operate the sentencing system so as to impose such sentence which reflects the conscience of the society and the sentencing process has to be stern where it should be. Any liberal attitude by imposing meagre sentences or taking too sympathetic view merely on account of lapse of time in respect of such offences will be result wise counterproductive in the long run and against the interest of society which needs to be cared for and strengthened by string of deterrence inbuilt in the sentencing system. Justice demands that courts should impose punishment befitting the crime so that the courts reflect public abhorrence of the crime. The court must not only keep in view the rights of the victim of the crime but the society at large while considering the imposition of appropriate punishment. The court will be failing in its duty if appropriate punishment is not awarded for a crime which has been committed not only against the individual victim but also against the society to which both the criminal and the victim belong.
- 34. *State of M.P. v. Basodi, AIR 2009 SC 3081*** Sentence u/s 376 IPC less than minimum prescribed cannot be awarded on the ground that the accused was rustic and illiterate labourer belonging to scheduled tribe. Impact of offence on social order and public interest cannot be lost sight of while exercising such discretion.
- 35. *State of MP v. Kashiram, AIR 2009 SC 1642*** Punishment awarded by courts for crimes must not be irrelevant. It should conform to and be consistent with the atrocity and brutality with which crime was committed. It must respond to society's cry for justice and criminals.
- 36. *State of M.P. v. Bablu Natt, 2009 2 SCC 272*** Mere existence of a discretion by itself does not justify its exercise. Discretion in awarding sentence should be exercised in a justified manner.
- 37. *Sushil Kumar v. State of Punjab, 2009 10 SCC 434*** There have to be very special reasons to record death penalty and if mitigating factors in the case are stronger then it is neither proper nor justified to award death sentence and it would be sufficient to place it out of "rarest of rare category.
- 38. *Harendra Nath Chakraborty v. State of W.B., 2009 2 SCC 758*** If the legislature has provided for a minimum sentence, the same should ordinarily be imposed save and except some exceptional causes which may justify awarding lesser sentence than the minimum prescribed.
- 39. *State of Punjab v. Prem Sagar, (2008) 7 SCC 550*** The court while awarding a sentence would take recourse to the principle of deterrence or reform or invoke the doctrine of proportionality, would no doubt depend upon the facts and circumstances of each case. While doing so, however, the nature of the offence said to have been committed by the accused plays an important role. The offences which affect public health must be dealt with severely. For the said purpose, the courts must notice the object for enacting Article 47 of the Constitution of India. There are certain offences which touch our social fabric. We must remind ourselves that even while introducing the doctrine of plea bargaining in the Code of Criminal Procedure, certain types of offences had been kept out of the purview thereof. While imposing sentences, the said principles should be borne in mind. What would be the effect of the sentencing on the society is a question which has been left unanswered by the legislature. The superior courts have come across a large number of cases which go to show anomalies as regards the policy of sentencing. Whereas the quantum of punishment for commission of a similar type of offence varies from minimum to maximum,

even where same sentence is imposed, the principles applied are found to be different. Similar discrepancies have been noticed in regard to imposition of fine.

- 40. *State of Karnataka v. Raju*, (2007) 11 SCC 490** The law regulates social interests, arbitrates conflicting claims and demands. Security of persons and property of the people is an essential function of the State. It could be achieved through instrumentality of criminal law. Undoubtedly, there is a cross-cultural conflict where living law must find answer to the new challenges and the courts are required to mould the sentencing system to meet the challenges. The contagion of lawlessness would undermine social order and lay it in ruins. Protection of society and stamping out criminal proclivity must be the object of law which must be achieved by imposing appropriate sentence. Therefore, law as a cornerstone of the edifice of 'order' should meet the challenges confronting the society. Friedman in his *Law in Changing Society* stated that: 'State of criminal law continues to be—as it should be—a decisive reflection of social consciousness of society.' Therefore, in operating the sentencing system, law should adopt the corrective machinery or deterrence based on factual matrix. By deft modulation, sentencing process be stern where it should be, and tempered with mercy where it warrants to be. The facts and given circumstances in each case, the nature of the crime, the manner in which it was planned and committed, the motive for commission of the crime, the conduct of the accused, the nature of weapons used and all other attending circumstances are relevant facts which would enter into the area of consideration.
- 41. *Union of India v. Devendra Nath Rai*, (2006) 2 SCC 243** Undue sympathy to impose inadequate sentence would do more harm to the justice system to undermine the public confidence in the efficacy of law, and society could not long endure under such serious threats. It is, therefore, the duty of every court to award proper sentence having regard to the nature of the offence and the manner in which it was executed or committed etc.
- 42. *Adu Ram v. Mukna and Ors.*, (2005) 10 SCC 597** Highlighted the principle of proportionality between crime and punishment and held that social impact of crime cannot be lost sight of and the offence of murderous assault under Section 300 read with Section 149, 304, Part I of I.P.C per se requires exemplary treatment. The criminal law adheres to the principle of criminal liability according to the culpability of each kind of criminal conduct. Thought the judges must affirm that punishment always fits to the crime but in practice sentences are generally determined by other considerations. Sometimes correctional needs of the perpetrator justify leniency in sentencing. The Court lamented that the practice of punishing serious crimes with equally severe punishment is now unknown to the civil societies and there has been a departure from the principle of proportionality in recent times. The recent Court notes that imposition of sentence without considering its effect on the social order leads to some undesirable practical consequences. Particularly, crimes against women, children, dacoity, treason, misappropriation of public money and offences involving moral turpitude have great impact on social order, and per se require exemplary punishment in public interest. Any liberal attitude by imposing lenient sentences or taking sympathetic view on account of lapse of time in respect of such offences will be counter-productive in the long run and will jeopardizes the social interest which needs to be strengthened by the string of deterrence inbuilt in the sentencing system

- 43. *Ajmer Singh v. State of Punjab*, (2005) 6 SCC 633** In reducing the sentence awarded by the lower court, it has been held by the Court that while reducing the sentence to period already undergone, courts should categorically notice and state the period actually undergone by the accused.
- 44. *P. Prabhakaran v. P. Jayarajan*, AIR 2005 SC 688** The direction by the court for the sentence to run concurrently or consecutively is in the discretion of the court and that does not affect the nature of the sentence.
- 45. *Mohd. Munna v. Union of India*, (2005) 7 SCC 417** Interpreting the provisions u/s 53, 53-A, 55, 57 of the IPC, the Court has held that the expression “life imprisonment” is not equivalent to imprisonment for 14 years or 20 years. “Life imprisonment” means imprisonment for the whole of the remaining period of the convicted person’s natural life. There is no provision either in IPC or in CrPC whereby life imprisonment could be treated as 14 years or 20 years without their being a formal remission by the appropriate government.
- 46. *State of M.P. v. Munna Choubey* (2005) 2 SCC 710** Imposition of sentence without considering its effect on the social order in many cases may be in reality a futile exercise. The social impact of the crime e.g. where it relates to offences against women, dacoity, kidnapping, misappropriation of public money, treason and other offences involving moral turpitude or moral delinquency which have great impact on social order and public interest, cannot be lost sight of and per se require exemplary treatment. Any liberal attitude by imposing meagre sentences or taking too sympathetic view merely on account of lapse of time in respect of such offences will be resultwise counterproductive in the long run and against societal interest which needs to be cared for and strengthened by string of deterrence inbuilt in the sentencing system.
- 47. *State of U.P. v. Shri Kishan*, (2005) 10 SCC 420** The court has emphasized that just and proper sentence should be imposed. Any liberal attitude by imposing meagre sentences or taking too sympathetic view merely on account of lapse of time in respect of such offences will be result wise counterproductive in the long run and against societal interest which needs to be cared for and strengthened by string of deterrence inbuilt in the sentencing system. The court will be failing in its duty if appropriate punishment is not awarded for a crime which has been committed not only against the individual victim but also against the society to which the criminal and victim belong. The punishment to be awarded for a crime must not be irrelevant but it should conform to and be consistent with the atrocity and brutality with which the crime has been perpetrated, the enormity of the crime warranting public abhorrence and it should ‘respond to the society's cry for justice against the criminal’.
- 48. *Deo Narain Mandal v. State of UP* (2004) 7 SCC 257** Sentence should not be either excessively harsh or ridiculously low. While determining the quantum of sentence, the court should bear in mind the principle of proportionality. Sentence should be based on facts of a given case. Gravity of offence, manner of commission of crime, age and sex of accused should be taken into account. Discretion of court in awarding sentence cannot be exercised arbitrarily or whimsically.
- 49. *Dalbir Singh v. State of Haryana* (2000) 5 SCC 82** While considering the quantum of sentence, to be imposed for the offence of causing death by rash or negligent driving of automobiles, one of the prime considerations should be deterrence. A professional driver pedals the accelerator of the automobile almost throughout his working hours. He must constantly inform himself that he cannot afford to have a single moment of laxity or inattentiveness when his leg is on the pedal of a vehicle in locomotion. He cannot and should not take a chance thinking that a rash driving need not necessarily cause any accident;

or even if any accident occurs it need not necessarily result in the death of any human being; or even if such death ensues he might not be convicted of the offence; and lastly that even if he is convicted he would be dealt with leniently by the court. He must always keep in his mind the fear psyche that if he is convicted of the offence for causing death of a human being due to his callous driving of vehicle he cannot escape from jail sentence. This is the role which the courts can play, particularly at the level of trial courts, for lessening the high rate of motor accidents due to callous driving of automobiles.

50. **Jai Kumar v. State of M.P., (1999) 5 SCC 1** The court held that, the measure of punishment in a given case must depend upon the atrocity of the crime; the conduct of the criminal and the defenceless and unprotected state of the victim. Imposition of appropriate punishment is the manner in which the courts respond to the society's cry for justice against the criminals. Justice demands that courts should impose punishment befitting the crime so that the courts reflect public abhorrence of the crime. The courts must not only keep in view the rights of the criminal but also the rights of the victim of crime and the society at large while considering imposition of appropriate punishment.
51. **Ravji alias Ram Chandra v. State of Rajasthan, (1996) 2 SCC 175** It was observed by the Court "The crimes had been committed with utmost cruelty and brutality without any provocation, in a calculated manner. It is the nature and gravity of the crime but not the criminal, which are germane for consideration of appropriate punishment in a criminal trial."
52. **State of Punjab v. Bira Singh, 1995 Supp (3) SCC 708** The Court held that at the time of awarding the sentence, the court should not adopt the lenient view and show misplaced sympathy. When courts give such lenient punishments, the value of deterrence of the punishment greatly reduces thereby encouraging rather than discouraging a criminal, allowing the whole society to suffer.
53. **State of A.P. v. Bodem Sundara Rao (1995) 6 SCC 230** The courts have an obligation while awarding punishment to impose appropriate punishment so as to respond to the society's cry for justice against such criminals. Public abhorrence of the crime needs a reflection through the court's verdict in the measure of punishment. The courts must not only keep in view the rights of the criminal but also the rights of the victim of crime and the society at large while considering imposition of the appropriate punishment.
54. **Suresh Chandra Bahri v. State of Bihar, AIR 1994 SC 2420** The critique of judicial sentencing has taken several forms: it is inequitable as reflected in disparate sentences; it is ineffectual; or it is unfair because it is either inadequate or, in some situations, cruel. It has frequently been stated that there is a significant disparity in punishing an accused who has been found guilty of some offence."
55. **Dhananjay Chatterjee Dhana v. State of West Bengal, 1994 2 SCC 220** In recent years, the rising crime rate-particularly violent crime against women has made the criminal sentencing by the courts a subject of concern. Today there are admitted disparities. Some criminals get very harsh sentences while many receive grossly different sentence for an essentially equivalent crime and a shockingly large number even go unpunished, thereby encouraging the criminal and in the ultimate making justice suffer by weakening the system's credibility. Of course, it is not possible to lay down any cut and dry formula relating to imposition of sentence but the object of sentencing should be to see that the crime does not go unpunished and the victim of crime as also the society has the satisfaction that justice has been done to it.

- 56. *Sevaka Perumal v. State of T.N. (1991) 3 SCC 471*** Undue sympathy to impose inadequate sentence would do more harm to the justice system to undermine the public confidence in the efficacy of law, and society could not long endure under such serious threats. It is, therefore, the duty of every court to award proper sentence having regard to the nature of the offence and the manner in which it was executed or committed, etc.
- 57. *Allauddin Mian v. State of Bihar, (1989) 3 SCC 5*** The sentencing court must approach the question seriously and must endeavour to see that all the relevant facts and circumstances bearing on the question of sentence are brought on record. Only after giving due weight to the mitigating as well as the aggravating circumstances placed before it, it must pronounce the sentence.
- 58. *Prem Kumar Parmar v. State 1989 RLR 131*** The economic offences having deep rooted conspiracies and involving huge loss of public funds whether of nationalized banks or of the State and its instrumentalities need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of our country. Therefore, the persons involved in such offences, particularly those who continue to reap the benefit of the crime committed by them, do not deserve any indulgence and any sympathy to them would not only be entirely misplaced but also against the larger interest of the society. The Court cannot be oblivious to the fact that such offences are preceded by cool, calculated and deliberate design, with an eye on personal gains, and in fact, not all such offences come to the surface. If a person knows that even after misappropriating huge public funds, he can come out on bail after spending a few months in jail, and thereafter, he can continue to enjoy the ill-gotten wealth, obtained by illegal means, that would only encourage many others to commit similar crimes in the belief that even if they have to spend a few months in jail, they can lead a lavish and comfortable life thereafter, utilizing the public funds acquired by them.
- 59. *Mithu v. State of Punjab, (1983) 2 SCC 277*** The court held that it is because the court has an option to impose either of the two alternative sentences, subject to the rule that the normal punishment for murder is life imprisonment, that it is important to hear the accused on the question of sentence.
- 60. *Earabhadrapa v. State of Karnataka (1983) 2 SCC 330*** A sentence or pattern of sentence which fails to take due account of the gravity of the offence can seriously undermine respect for law. It is the duty of the court to impose a proper punishment depending upon the degree of criminality and desirability to impose such punishment as a measure of social necessity as a means of deterring other potential offenders.
- 61. *Deen Dayal v. Union of India, AIR 1983 SC 1155*** The court held that the method prescribed by section 354(5) of the Criminal Procedure Code for executing the death sentence does not violate Article 21 of the Constitution.
- 62. *Machi Singh and others v. State of Punjab, AIR 1983 SC 957*** The court elucidated the doctrine of 'rarest of rare.' The Court laid down certain guidelines pertaining to the parameters to be considered when deciding whether a case falls under the purview of the 'rarest of the rare'

The guidelines are as follows:

- **Modus operandi:** The Court stated that if the crime committed is extremely brutal and heinous that it shocks the collective conscience of the society, it would fall under the purview of the 'rarest of the rare' cases.

- The motive for committing the crime: When the crime is committed using a deliberate design to kill the victim brutally, or assassins are hired to torture and kill the victim, or the act is done to betray the nation, it would fall under the purview of 'rarest of rare' case.
 - The severity of the crime: The gravity of the crime must be taken into account. For example, murdering every member living in a particular locality or all the members of a family.
 - Victim of the crime: If the victim of the crime is vulnerable, that is, a minor, a senile person, an insane person; or the victim is an influential figure that has received much love from society, the crime would then also fall under the purview 'rarest of the rare' case.
 - Balance sheet: A balance sheet must be prepared taking into account the aggravating and mitigating circumstances of the case. The mitigating circumstances have to be given full weightage and a balance must be struck between the aggravating and the mitigating circumstances, before making the final decision.
- 63. *Muniappan v. State of Tamil Nadu, (1981) 3 SCC 11*** The obligation to hear the accused on the question of sentence which is imposed by Section 235(2) of the Criminal Procedure Code is not discharged by putting a formal question to the accused as to what he has to say on the question of sentence. The judge must make a genuine effort to elicit from the accused all information which will eventually bear on the question of sentence. All admissible evidence is before the judge but that evidence itself often furnishes a clue to the genesis of the crime and the motivation of the criminal. It is the bounden duty of the judge to cast aside the formalities of the court scene and approach the question of sentence from a broad, sociological point of view. The occasion to apply the provisions of Section 235(2) arises only after the conviction is recorded. What then remains is the question of sentence in which not merely the accused but the whole society has a stake. Questions which the judge can put to the accused under Section 235(2) and the answers which the accused makes to those questions are beyond the narrow constraints of the Evidence Act. The court, while on the question of sentence, is in an altogether different domain in which facts and factors which operate are of an entirely different order than those which come into play on the question of conviction. The Sessions Judge, in the instant case, complied with the form and letter of the obligation which Section 235(2) imposes, forgetting the spirit and substance of that obligation.”
- 64. *Maru Ram v. Union of India, (1981) 1 SCC 107*** The court examined Section 433A of the CrPC, a provision brought in place a mandatory minimum of 14 years before which a person sentenced to life imprisonment for a capital offence could be considered for remission. It held the law to be constitutionally valid, as it was neither arbitrary nor irrational. The Court further laid down the law that life imprisonment meant imprisonment till the end of life, subject to the appropriate government choosing to release the prisoner in terms of Section 433A of the CrPC.
- 65. *Bachan Singh v. State of Punjab, (1980) 2 SCC 684*** The majority upheld the constitutionality of the death sentence, on the condition that it could be imposed in the “rarest of rare” cases. The Court, being conscious of the safeguard of a separate hearing on the question of sentence, articulated it as a valuable right, which ensures to a convict, to urge why in the circumstances of his or her case, the extreme penalty of death ought not to be imposed. The Court noted, “The present legislative policy discernible from Section 235 (2) read with Section 354 (3) is that in fixing the degree of punishment or making the choice of sentence for various offences the Court should not confine its consideration “principally” or merely to the circumstances connected with a particular crime, but also give due consideration to the circumstances of the criminal.”
- 66. *Dagdu v. State of Maharashtra, (1977) 3 SCC 68*** The court rejected the interpretation as laying down that failure on the part of the court to hear a convicted accused, on the question of sentence, would necessitate remand to the trial court. Instead, it held that such an omission could be remedied by the higher court by affording a hearing to

the accused on the question of sentence, provided the hearing was “real and effective” wherein the accused was permitted to “adduce before the court all the data which he desires to be adduced on the question of sentence”.

SESSION 6 CRIMINAL JUSTICE ADMINISTRATION

1.	<i>What is a fair trial? A Basic Guide to Legal Standards and Practice</i> , Lawyers Committee for Human Rights, (March 2000)	668
2.	Prof. B. B. Pande, <i>Rationalising the Pre-Trial Processes in India, Chapter-X</i> , Criminal Law and Criminal Justice: Advanced Legal Writings, EBC First Ed. 2022	727
3.	Justice R.C. Chavan , <i>Rebuilding Confidence in Criminal Justice System, More Cries in Wilderness</i> , 44-65, AIR Law Academy & Research Center Nagpur, First Ed., (2020)	749
4.	P.N. Bhagwati, <i>Human Rights in the Criminal Justice System</i> , Journal of the Indian Law Institute, 27(1), 1-22 (1985)	772

Additional Reading:

- Maja Daruwala Ed., ***Fair Trial Manual: A Handbook for Judges and Magistrates***, The Commonwealth Human Rights Initiative and the International Human Rights Clinic, Cornell Law School 2019 Second Edition

JUDGMENTS

(Judgments mentioned below include citations and short notes for reference only. Refer full judgment for conclusive opinion)

1. ***Premchand v. State of Maharashtra*** 2023 SCC OnLine SC 218 [Supreme Court briefly summarised the settled principles with respect to Section 313 Code of Criminal Procedure, 1973. The court discussed the importance of Section 313 Cr.P.C. and the trite law in that respect.]
2. ***Sunita Devi v. State of Haryana***, (2023) 1 SCC 178 [Re S. 438 CrPC qua refusal of grant of anticipatory bail by High Court, interference by Supreme Court, when warranted, explained.]
3. ***The Directorate of Enforcement v. M. Gopal Reddy and another***, 2022 SCC OnLine SC 1862 – Supreme Court has reiterated that the conditions under Sec 45 of PMLA for grant of bail are applicable to Anticipatory bail applications under Sec 438 of CrPC as well.
4. ***Anant Thanur Karmuse v. State of Maharashtra*** 2023 SCC OnLine SC 180 [Victim has a Fundamental Right of fair investigation and fair trial. Therefore, mere filing of the chargesheet and framing of the charges cannot be an impediment in ordering further investigation/ re-investigation/ de-novo investigation, if the facts so warrant.]
5. ***Totaram v. State of MP*** 2023 SCC OnLine SC 194 [prima facie, no justification for the High Court to call for an explanation from the trial judge for having granted bail. Such orders of the High Court seriously affect the independence of the district judiciary in considering applications for bail in appropriate cases.]
6. ***Rana Ayyub v. Directorate of Enforcement through Its Assistant Director*** 2023 SCC OnLine SC 109 [The provisions of the Cr.P.C. are applicable to all proceedings under the Act including proceedings before the Special Court, except to the extent they are specifically excluded. Hence, Section 71 of the PMLA providing an overriding effect, has to be construed in tune with Section 46(1) and Section 65. (Para 28-29)]
7. ***Rohan Dhungat etc. v. State of Goa***, 2023 SCC OnLine SC 16, [The question of law raised and settled by the apex court was - "[W]hether the period of parole is to be excluded from the period of sentence?". The object and purpose of parole was considered by the courts. While explaining "imprisonment" the court held that "term of imprisonment is not included in the computation of term of parole".]

8. **State v. T. Gangi Reddy**, 2023 SCC OnLine SC 25 [The Supreme Court held that release of an accused person on default bail will not act as an absolute bar to consider a plea for cancellation of bail on merits after presentation of chargesheet.]
9. **Mohammed Zubair v. State of NCT of Delhi**, [2022 SCC OnLine SC 897](#) [The 6 FIRs filed in Ghaziabad, Chandauli, Lakhimpur, Sitapur, Hathras have also been transferred from the Uttar Pradesh Police to the Special Cell of the Delhi Police, thereby disbanding the SIT formed by the Director General of Police, Uttar Pradesh on 10 July 2022. If any other related FIR is filed against Zubair then the same will also be transferred to the Special Cell of the Delhi Police and Zubair shall be entitled to the order of interim bail.]
10. **Kanchan Kumari v. State of Bihar and Another** 2022 SCC OnLine SC 981 [Section 138 - Anticipatory Bail - Adverse order against third party by High Court in an anticipatory bail proceedings - It is a peremptory direction affecting a third party. The adverse impact of the direction goes to the very livelihood of the appellant. It has also civil consequences for the appellant. Such a peremptory direction and that too, without even issuing any notice to the appellant was clearly unjustified.]
11. **Jameel Ahmad v. Mohammed Umair Mohammad Haroon & anr.** Criminal Appeal No. 230 of 2022 [Grant of bail, though a discretionary order, requires such discretion to be exercised in a judicious manner and on the application of certain settled parameters. The more heinous the crime, the greater the chance of rejection of bail, though the exercise also depends on the factual matrix of the matter]
12. **Rajesh Seth v. The State of Chhattisgarh** Special Leave to Appeal (Crl.) No(s).1247/2022; 21-02-2022 [Indefinite adjournment in a matter relating to anticipatory bail, that too after admitting it, is detrimental to the valuable right of a person - When a person is before the Court and that too in a matter involving personal liberty, least what is expected is for such a person to be given the result one way or the other, based on the merit of his case and not push him to a position of uncertainty or be condemned without being heard, when it matters.]
13. **Satender Kumar Antil v. C.B.I.**, 2022 SCC Online SC 825 [**‘India needs a Bail Act’: Supreme Court asks Centre to consider the suggestion; Grant of bail — Exercise of discretion by court — Guidelines issued therefore based on categorisation of offences made herein:** Offences have been categorised and the guidelines have been issued for grant of bail, but without fettering the discretion of the courts concerned and keeping in mind the statutory provisions. Further held, where the accused have not cooperated in the investigation nor appeared before the investigating officers, nor answered summons when the court feels that judicial custody of the accused is necessary for the completion of the trial, where further investigation including a possible recovery is needed, the benefit of the above guidelines cannot be given to such accused. Lastly, held, it is not as if economic offences not covered by Special Acts, are completely taken out of the aforesaid guidelines but do form a different nature of offences. Thus the seriousness of the charge has to be taken into account but simultaneously, the severity of the punishment imposed by the statute would also be a factor.]
14. **Manoj Kumar Khokhar v. State of Rajasthan** (2022) 3 SCC 501 [Cryptic and casual bail orders without relevant reasons liable to be set aside; “cessante razione legis cessat ipsa lex” invoked to hold that **“reason is the soul of the law, and when the reason of any particular law ceases, so does the law itself”**]
15. **Sunil Kumar v. State of Bihar**, (2022) 3 SCC 245 [**Bail:** Principles summarized regarding considerations to be balanced while deciding to grant bail.]
16. **Deepak Yadav v. State of U.P. and Another**, 2022 SCC OnLine SC 672 [It is no doubt true that cancellation of bail cannot be limited to the occurrence of supervening circumstances. This Court certainly has the inherent powers and discretion to cancel the bail of an accused even in the absence of supervening circumstances. Following are the illustrative circumstances where the bail can be cancelled :- **a)** Where the court granting bail takes into account irrelevant material of substantial nature and not trivial nature while ignoring relevant material on record. **b)** Where the court granting bail overlooks the influential position of the accused in comparison to the victim of abuse or the witnesses especially when there is prima facie misuse of position and power over the victim. **c)** Where the past criminal record and conduct of the accused is completely ignored while granting bail. **d)** Where bail has been granted on untenable grounds. **e)** Where serious discrepancies are found in the order granting bail thereby causing prejudice to justice. **f)** Where the grant of bail was not appropriate in the first place given the very serious nature of the charges

against the accused which disentitles him for bail and thus cannot be justified. g) When the order granting bail is apparently whimsical, capricious and perverse in the facts of the given case.]

17. **Devendra Kumar Saxena v. Central Bureau of Investigation and Ors.** AIR 2021 SC 2006 [Criminal - Transfer Petition - Transfer sought on health grounds - Petition opposed on the ground of trial already under way - Whether transfer can be granted?]
18. **Manjeet Singh v. State of Haryana and Ors.** AIR 2021 SC 4274 [the court has held that to summon the person who is not charge sheeted, the effort is that the real perpetrator of the offence is punished which is part and parcel of the principle of fair trial and this empowerment of the court is essential to ensure the proper working of the criminal administration of justice.]
19. **Sartaj Singh v. State of Haryana and Ors.** (2021) 5 SCC 337 [Object and purpose of S. 319: Principles reiterated regarding scope and ambit of powers of Magistrate under S. 319 and when additional accused may be added and “evidence” on basis of which may be added.]
20. **Shantaben Bhurabhai Bhuriya v. Anand Athabhai Chaudhari and Ors.** AIR 2021 SC 5368 [the Apex Court has taken a clear stand that criminal proceedings under SC-ST (Prevention of Atrocities) Act is not vitiated merely because the Magistrate had taken cognizance and committed the case to Special Court.]
21. **Ajay Kumar Pandey. v. State of U.P. & Ors** 2021 SCC OnLine All 77 [A fair trial includes fair investigation as reflected from Articles 20 and 21 of the Constitution of India. If the investigation is neither effective nor purposeful nor objective nor fair, the courts may if considered necessary, may order a fair investigation, further investigation or reinvestigation as the case may be to discover the truth so as to prevent miscarriage of justice.]
22. **CD Pharma India Private Limited v. State of NCT of Delhi & Ors** [W.P. (CRL) 999/2020 & CrI. M.A. No. 8526/2020 [The power to order reinvestigation or transfer of investigation needs to be exercised judiciously and not at the mere asking. It can be ordered only if the conscience of the Court is shaken to the standard of investigation.]]
23. **Mahender Chawla and Others v. Union of India** (2019) 14 SCC 615 [The Court held that one of the main reasons for witnesses changing their stance can be the lack of proper protection given by the state, hence a threat to life. Such witnesses are known as hostile witnesses.]
24. **Dinubhai Boghabhai Solanki v. State of Gujarat and Ors.** (2018) 11 SCC 129 [De novo retrial - Validity thereof - Sections 302 and 114 of Indian Penal Code, 1860 (IPC); Section 25(1) of Arms Act, 1959 - Present appeal filed challenging order whereby High Court directed de novo trial of case - Whether High Court justified passing de novo trial of case]
25. **Mohan Lal v. State of Punjab** AIR 2018 SC 3853 [The Supreme Court held that the possibility of real likelihood of bias existing on part of that police officer could not be excluded, and the right to fair investigations demanded that these be conducted in an impartial and unbiased manner.]
26. **Asha Ranjan and another v. State of Bihar and others** AIR 2017 SC 1079 [that an individual’s choice is very complicatedly linked to dignity because dignity cannot be thought of in the absence of choice. The concept of ‘class honour’ or ‘group thinking’ is unlikely to surrender to such a right of choice.]
27. **Balakram v. State of Uttarakhand and others** (2017) 7 SCC 668 [**Right of accused to cross-examine police officer with reference to entries in police diary**]
28. **Naresh Kumar alias Nitu v. State of Himachal Pradesh** 2017 Indlaw SC 508 [The presumptive provision with reverse burden of proof, does not sanction conviction on basis of preponderance of probability. Section 35(2) provides that a fact can be said to have been proved if it is established beyond reasonable doubt and not on preponderance of probability.”]
29. **Ajay Singh v. State of Chhattisgarh** (2017) 3 SCC 330 [The CrPC does not define the term “judgment”, yet it has clearly laid down how the judgment is to be pronounced. The provisions clearly spell out that it is imperative on the part of the learned trial judge to pronounce the judgment in open court by delivering the whole of the judgment or by reading out the whole of the judgment or by reading out the operative part of the judgment and explaining the substance

of the judgment in a language which is understood by the accused or his pleader. Further, the trial judge may not read the whole of the judgment and may read operative part of the judgment but it does not in any way suggest that the result of the case will be announced and the judgment would not be available on record.]

30. **State of Bihar v. Rajballav Prasad @ Rajballav Pd. Yadav @ Rajballabh Yadav** (2017) 2 SCC 178 [*Respondent preferred another bail petition before High Court - High Court directed release of Respondent on bail - Certain conditions were also imposed while granting bail - Hence, present appeal by State - Whether High Court should not have granted bail to Respondent*]
31. **Amrutbhai Shambhubhai Patel vs. Sumanbhai Kantibhai Patel and others** AIR 2017 SC 774 [*It was held that after a report is submitted by the police on completion of the investigation, the Magistrate, in both the contingencies, namely; when he takes cognizance of the offence or discharges the accused, would be committed to a course, whereafter though the investigating agency may for good reasons inform him and seek his permission to conduct further investigation, he suo motu cannot embark upon such a step or take that initiative on the request or prayer made by the complainant/informant.*]
32. **Pooja Pal v. Union of India and others** (2016) 3 SCC 135 [*Court observed that in a criminal case, fate of the proceedings cannot be left in the hands of the parties, crimes being public wrongs in breach and violation of public rights and duties, which affect the whole community and are harmful to the society.*]
33. **State of Haryana v. Ram Mehar and others** (2016) 8 SCC 762 [*Arithmetical approach in allowing recall of witness can be dangerous*]
34. **State (NCT of Delhi) v. Shiv Kumar Yadav** (2016) 2 SCC 402 [*Mere observation that recall was necessary “for ensuring fair of trial” is not enough unless there are tangible reasons to show how fairness of trial suffered without recall.*]
35. **Bablu Kumar v. State of Bihar** (2015) 8 SCC 787 [*For fair proceedings, the courts have to be proactive and see that no one It is the duty of the court to see that one party does not make the case ridiculous, that the summons issued to the witnesses of the prosecution are actually served to them.*]
36. **Vinod Kumar v. State of Punjab** (2015) 3 SCC 220 [*Held, trap witness was interested witness and his testimony, to be accepted and relied upon required corroboration and corroboration would depend upon facts and circumstances, nature of crime and character of trap witness - Nothing had been put to Prosecution Witness, who was member of raiding party, to elicit that he was anyway personally interested to get Appellant convicted - It was not case that there was no other evidence barring evidence of Complainant - On contrary there were adequate circumstances which established ingredients of offences in respect of which Appellant was charged - Further, evidence of Prosecution Witnesses got corroboration from each other - No infirmity in impugned order - Appeal dismissed.*]
37. **State of Himachal Pradesh v. Raj Kumar** (2014) 14 SCC 39 [*Chain of circumstances was not so complete as not to leave any reasonable ground for conclusion consistent with innocence of Respondent - High Court had, therefore, rightly set aside conviction and acquitted Respondent - Appeal dismissed.*]
38. **State of Gujarat v. Kishanbhai** (2014) 5 SCC 108 [*Lapses committed by investigating and prosecuting agencies, stringently deprecated and directions issued for purposeful and decisive investigation and prosecution in the matter.*]
39. **Ashok Debbarma @ Achak Debbarma v. State of Tripura** (2014) 4 SCC 747 [*the concept of residual doubt was considered*]
40. **Hardeep Singh v. State of Punjab** (2014) 3 SCC 92 [*Power under Section 319 Cr.P.C. is a discretionary and an extraordinary power. It is to be exercised sparingly and only in those cases where the circumstances of the case so warrant. It is not to be exercised because the Magistrate or the Sessions Judge is of the opinion that some other person may also be guilty of committing that offence. Only where strong and cogent evidence occurs against a person from the evidence led before the court that such power should be exercised and not in a casual and cavalier manner*]
41. **Sarah Mathew v. Institute of Cardio Vascular Diseases** (2014) 2 SCC 62 [*It was held that “Magistrate takes cognizance when he applies his mind or takes judicial notice of an offence with a view to initiating proceeding. Further,*

the petition to condone the delay should be filed at the time of giving the complaint itself”, thus, observed that the date of filing the complaint is material for filing a petition under Section 473 CrPC.]

42. **Dharam Pal v. State of Haryana** (2014) 3 SCC 306 [The Magistrate has to apply his mind to a final report/charge-sheet or challan and proceed with the matter as per the provisions stipulated in the Code.]
43. **K. V. Rajendra v. Superintendent of Police, Chennai & Ors**, (2013) 12 SCC 480 [Where the investigation is complete & charge-sheet filed, ordinarily superior courts should not reopen the investigation and it be left open to the court to proceed with the matter in accordance with law.]
44. **Mohammed Ajmal Mohammad Amir Kasab v. State of Maharashtra** AIR 2012 SC 3565 [This Fundamental Right is implicit in the requirement of reasonable, fair and just procedure prescribed by Article 21. The magistrate is duty bound to inform the accused of his right to consult a lawyer of choice and in case the accused is unable to afford the services of such a lawyer, to provide him/her a legal practitioner at State expense. The Supreme Court has directed all magistrates in the country to faithfully discharge the aforesaid obligation and opined that any failure to fully discharge this duty would amount to dereliction in duty and would make the concerned magistrate liable to departmental proceedings. The guiding principle is that no accused must go unrepresented and he/she must be allowed access to a lawyer or provided with a lawyer from the time he/she comes into contact with the criminal justice system. The failure to provide a lawyer to the accused at the pretrial stage may not have the consequence of vitiating the trial. It may have other consequences like making the delinquent magistrate liable to disciplinary proceedings, or giving the accused a right to claim compensation against the State for failing to provide him/her with legal aid. But it would not vitiate the trial unless it is shown that failure to provide legal assistance at the pretrial stage had resulted in some material prejudice to the accused in the course of the trial.]
45. **State of U.P. v. Naresh and Ors** (2011) 4 SCC 324 [The Supreme Court observed “every accused is assumed to be innocent unless his guilt is proved. The presumption of innocence is a human right subject to the statutory exceptions.]
46. **Himanshu Singh Sabharwal v. State of M.P.**, AIR 2008 SC 1943 [If the fair trial envisaged under the Code is not imparted to the parties and court has reasons to believe that prosecuting agency or prosecutor is not acting in the requisite manner the court exercise its power under Section 311 of the Criminal Procedure Code or under Section 165 of the Indian Evidence Act, 1872 to call in for the material witness and procure the relevant documents so as to serve the cause of justice.]
47. **Sakiri Vasu v. State of U.P. & Ors** (2008) 2 SCC 409 [The Supreme Court made important observations regarding the role of the magistrate during an investigation. It was held that a magistrate can pass directions to ensure that a “proper investigation” is made, and that magistrates had “all such powers which are necessary to ensure that a proper investigation is made” which include “monitoring” an investigation.]
48. **Zahira Habibullah Sheikh and Ors. v. State of Gujarat and Ors** (2006) 3 SCC 374 [The Supreme Court of India observed “each one has an inbuilt right to be dealt with fairly in a criminal trial. Denial of a fair trial is as much injustice to the accused as it is to the victim and to society. Fair trial means a trial in which bias or prejudice for or against the accused, the witness or the cause which is being tried, is eliminated.]
49. **D.K. Basu v. State of West Bengal** (1997) 1 SCC 416 [The Supreme Court laid down the guidelines which must be followed by every police officer conducting arrest.]
50. **Nilabati Behera v. State of Odisha** (1993) 2 SCC 746 [The precious right guaranteed by Article 21 of the Constitution of India cannot be denied to convicts, under trials, or other prisoners in custody, except according to procedure established by law. There is a great responsibility on the police or prison authorities to ensure that the citizen in its custody is not deprived of his right to life. The Supreme Court affirmed that Article 32 empowers courts to grant compensation for deprivation of a fundamental right. The Court explained that without this power to render compensation, the Court’s role as a protector of constitutional rights is merely a mirage, and might even create an incentive to torture in certain circumstances.]
51. **Shyam Singh v. State of Rajasthan** 1973 CrL LJ 441, 443 (Raj) [For ensuring fair trial, it has to be checked whether there exists a circumstance according to which a litigant could reasonably apprehend that a bias attributable to a

judicial officer must have operated against him in the final decision of the case and not that if a bias could have affected the judgment.]

52. ***Khatri v. State of Bihar*** (1981) 2 SCC 493 [*The court held that the accused is entitled to free legal services not only at the stage of trial but also when first produced before the Magistrate and also when remanded.*]
53. ***Hussainara Khatoon & Ors v. Home Secretary, State Of Bihar***, 1979 AIR 1369 [*Gave broader meaning to Article 21 and stated that everyone has the right to a prompt trial. It is the most well-known case involving the human rights of Indian inmates.*]