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1.	<i>Ashok Kumar v. Raj Gupta</i> , (2022) 1 SCC 20 [When the plaintiff is unwilling to subject himself to the DNA test, forcing him to undergo one would impinge on his personal liberty and his right to privacy.]	
2.	<i>Ashok Kumar Chandel v. State of UP</i> , 2022 SCC OnLine SC 1525 [Where there are credible injured eye witness testimonies, certain minor variations, such as non-recovery of blood stained clothes, certain other weapons etc. will not be fatal to the case of the prosecution.] [Sec. 293 CrPC - SC observed that a ballistic report forwarded by Director/deputy Director/Assistant Director of a lab under the seal to be in compliance with the statutory requirement under Sec. 293 CrPC]	
3.	<i>Veerendra v. State of Madhya Pradesh</i> , 2022 SCC OnLine SC 622 [The lapse or omission (purposeful or otherwise) to carry out DNA profiling, by itself, cannot be permitted to decide the fate of a trial for the offence of rape especially, when it is combined with the commission of the offence of murder - Even if such a flaw had occurred in the investigation in a given case, the Court has still a duty to consider whether the materials and evidence available on record before it, is enough and cogent to prove the case of the Prosecution.]	
4.	<i>Hari Om alias Hero v. State of Uttar Pradesh</i> , (2021) 4 SCC 345 [In absence of any other reliable incriminatory materials, the evidence of child witness could not be made the basis to convict appellant. Further, opinion of fingerprint expert is not substantive evidence and such opinion can only be used to corroborate some items of substantive evidence which are otherwise on record.]	

5. **Inayath Ali & Anr v. State of Telangana & Anr**, SLP (Crl) No. 4946/2017 [DNA Test for Paternity – Right to Privacy Test could be prejudicial to the privacy rights of persons subjected to it – Sec. 112 of Indian Evidence Act, 1872, (Para 7)]
6. **Pattu Rajan v. State of Tamil Nadu**, (2019) 4 SCC 771 [Reliability of The Novel “Superimposition Technology” for Investigation & its Comparative Preference to DNA Test]
7. **Chennadi Japapathi Reddy v. Baddam Pratapa Reddy**, (2019) 14 SCC 220 [A court must be cautious while evaluating expert evidence, which is a weak type of evidence and not substantive in nature it may not be safe to solely rely upon such evidence, and the Court may seek independent and reliable corroboration in the facts of a given case. Generally, mere expert evidence as to a fact is not regarded as conclusive proof of it.]
8. **Rajendra Pralhadrao Wasnik v. State of Maharashtra**, (2019) 12 SCC 460 [DNA profiling is an extremely accurate way to compare a suspect’s DNA with crime scene specimens, victim’s DNA on the blood-stained clothes of the accused or other articles recovered, DNA testing can make a virtually positive identification when the two samples match. A DNA finger print is identical for every part of the body, whether it is the blood, saliva, brain, kidney or foot on any part of the body. It cannot be changed; it will be identical no matter what is done to a body. Even relatively minute quantities of blood, saliva or semen at a crime scene or on clothes can yield sufficient material for analysis. The Experts opine that the identification is almost hundred per cent precise. Using this i.e. chemical structure of genetic information by generating DNA profile of the individual, identification of an individual is done like in the traditional method of identifying finger prints of offenders.]
9. **Ritesh Sinha v. State of UP**, 2019 SCC OnLine SC 956 [The Supreme Court has conceded to judicial magistrate the power to order a person to give sample of his voice for the purpose of investigation of crime “until explicit provisions are engrafted in the Code of Procedure by Parliament”.]
10. **Mukesh v. State (NCT of Delhi)**, 2017 (6) SCC 1 (Nirbhaya Case) [The DNA profiling, which was done after taking due care for quality, proved to the hilt the presence of the Accused in the bus and their involvement in the crime. The submission that certain samples were later on taken from the Accused and planted on the deceased to prove the DNA aspect was noted only to be rejected because it had no legs to stand upon. The argument that the transfusion of blood had the potentiality to give rise to two categories of DNA or two DNAs was farthest from truth and there was no evidence on that score. On the contrary, the evidence in exclusivity points to the matching of the DNA of the deceased with that of the Accused on many aspects. The evidence brought on record with regard to finger prints was absolutely impeccable and the Trial court and the High Court correctly placed reliance on the same and that there was no reason to disbelieve the same. The scientific evidence relating to odontology showed how far the Accused proceeded and where the bites were found and it was extremely impossible to accept the submission that it had been a manipulation by the investigating agency to rope in the Accused persons. The evidence brought on record as regards criminal conspiracy stands established. The brutal, barbaric and diabolic nature of the crime was evincible from the acts committed by the Accused persons. The aggravating circumstances outweigh the mitigating circumstances now brought on record. Therefore, the High Court correctly confirmed the death penalty.]
11. **S.P.S. Rathore v. Central Bureau of Investigation & Another**, (2017) 5 SCC 817 [It is not essential that the handwriting expert must be examined in a case to prove or disprove the disputed writing. It is opinion

evidence and it can rarely, if ever, take the place of substantive evidence. It is thus clear, that uncorroborated evidence of a handwriting expert is an extremely weak type of evidence and the same should not be relied upon either for the conviction or for acquittal.]

12. **Machindra v. Sajjan Gafla Rankhamb & other**, (2017) 13 SCC 491 [Where medical evidence is such that it does not give any clear opinion with respect to injuries inflicted on body of victim or deceased, as the case may be, possibilities that injuries might have been caused by accused are also ruled out. such medical evidence is very important to assess the testimonies of eyewitness and whether they can be accepted or not.]
13. **Nandlal Wasudeo Badwaik v. Lata Nandlal Badwaik & Anr** (2014) 2 SCC 576 [Section 112 of the Evidence Act does not create a legal fiction but provides for presumption.]
14. **Sushil Sharma v. State (NCT of Delhi)**, (2014) 4 SCC 317 (Tandoor Murder Case) [Medical evidence establishing that death was caused by bullet injury in head and neck of deceased and that burns were post-mortem- CFSL report establishing that bullets recovered from flat and skull of deceased were fired from A-1's revolver] [Court held that the chain of circumstances is complete and unerringly points to the guilt with the help of medical evidence including post-mortem and DNA report.]
15. **Anil v. State of Maharashtra**, (2014) 4 SCC 69 [Regarding Variance in Results of DNA Tests & its Impact on Reliability]
16. **Dharam Deo Yadav vs State Of U.P.**, (2014) 5 SCC 509 [Crime Scene Management - Judiciary should also be equipped to understand and deal with such scientific materials. Constant interaction of Judges with scientists, engineers would promote and widen their knowledge to deal with such scientific evidence and to effectively deal with criminal cases based on scientific evidence.]
17. **Nupur Talvar v. CBI And Anothers**, (2012) 11 SCC 465 [In the stage of issuance of process, the Magistrate is not required to weigh the evidence meticulously as if it was the trial court nor is it required to be scrutinize the evidence by same standard by which the trial court scrutinizes the evidence at the time of framing of charge]
18. **Dayal Singh & Others v. State of Uttaranchal**, (2012) 8 SCC 263 [Expert report should be well authored and convincing. Report, duly proved has evidentiary value but it is not binding on the court.]
19. **Surendra Koli v. State of Uttar Pradesh & others**, (2011) 4 SCC 80 [Under medical jurisprudence, the matching of DNA of deceased with that of her parents and brother is considered as an established identity of the dead body.]
20. **Santosh Kumar Singh v. State**, (2010) 9 SCC 747 [Priyadarshini Matoo Case][DNA report is "scientifically accurate and an exact science", & court cannot substitute its own opinion for that of an expert]
21. **Selvi vs. State of Karnataka**, AIR 2010 SC 1974 [The Supreme Court in this case considered the constitutionality of various evidence gathering techniques including narco analysis, BEAP (Brain Electrical Activation Profile) or 'brain mapping', and polygraph tests.]
22. **Bhabani Prasad Jena v. Convener Secretary Orissa State Commission for Women and Another** (2010) 8 SCC 633 [The Court noted the sensitivities involved with the issue of ordering a DNA test, and therefore held that the court should use its discretion only after balancing the interests of the parties. It ruled that

a court should consider the 'eminent need' and weigh the pros and cons of ordering a DNA test, especially when there is a conflict between the right to privacy of a person who is being compelled to take the test and the duty of the court to reach the truth.]

23. **Premjibhai Bachubhai Khasiya v. State of Gujarat**, 2009 SCC OnLine Guj 12076, [*Whether the DNA report can be the sole basis and conclusive evidence of the paternity of the child (foetus) or guilt of the accused for rape, in absence of any other evidence*]
24. **Pantangi Balarama Venkata Ganesh vs State Of A.P.**, 2009 Cri. L.J. 4144 [*"there cannot be any doubt whatsoever that there is a need of quality control. Precautions are required to be taken to ensure preparation of high molecular weight DNA complete digestion of the samples with appropriate enzymes, and perfect transfer and hybridization of the blot to obtain distinct bands with appropriate control.*]
25. **Ghurey Lal v. State of UP**, (2008) 10 SCC 450, [*According to the trial court, the medical evidence coupled with the Ballistic Expert report revealed the existence of two fires from two weapons and as such was inconsistent with the prosecution story. In our administration of criminal justice an accused is presumed to be innocent unless such a presumption is rebutted by the prosecution by producing the evidence to show him to be guilty of the offence with which he is charged. Further if two views are possible on the evidence produced in the case, one indicating to the guilt of the accused and the other to his innocence, the view favourable to the accused is to be accepted.*]
26. **Banarsi Dass v. Teeku Dutta**, (2005) 4 SCC 449 [*The verdict of displacement of the presumption shall not be rendered on the basis of slender materials. If a husband and wife were living together during the time of conception but the DNA test revealed that the child was not born to the husband, the conclusiveness in law would remain irrebuttable.*]
27. **Goutum Kundu v. State of West Bengal** (1993) 3 SCC 418 [*It was held that even without the consent of the guardian ad litem, the court had power to order an infant be subjected to a blood group test. There is no justification for the court below to refuse the same on the ground that [Section 112](#) of the Evidence Act would be an obstacle in seeking relief of blood group test.*]
28. **State of Bombay v. Kathi Kalu Oghad** AIR 1961 SC 1808 [*the use of material samples such as fingerprints for the purpose of comparison and identification does not amount to a testimonial act for the purpose of Article 20(3).*]

SESSION 8

PRINCIPLES OF EVIDENCE: ADMISSIBILITY & APPRECIATION

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3.	U.L. Bhat (2016), Burden of Proof (Sections 101 to 113, 114A & 114B) , in LECTURES ON THE INDIAN EVIDENCE ACT, Universal Law Publishing, Lexis Nexis, (2016)	163

4.	Dr. Justice B. S. Chauhan, Burden of Proof and Evidentiary Presumptions , Unpublished, prepared for NJA programme, 19.10.2022	188
5.	Justice S. G. Gokani, Burden of Proof and Reverse Burden in DIAMOND JUBILEE 1960-2020 60 YEARS LEGACY AND LAW, (The High Court of Gujarat 2021) pp. 83-93.	213
6.	David Hamer, The Presumption Of Innocence And Reverse Burdens: A Balancing Act , Cambridge Law Journal, 66(1), March 2007, pp. 142.	227

JUDGMENTS

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

1. **Dauvaram Nirmalkar v. State of Chhattisgarh**, 2022 SCC OnLine SC 955 The prosecution must prove the guilt of the accused, that is, it must establish all ingredients of the offence with which the accused is charged, but this burden should not be mixed with the burden on the accused of proving that the case falls within an exception. However, to discharge this burden the accused may rely upon the case of the prosecution and the evidence adduced by the prosecution in the court.
2. **Keshav v. Gian Chand**, 2022 SCC OnLine SC 81 The burden of establishing perfect fairness, adequacy and equity is cast upon the person in whom the confidence has been reposed.
3. **Jaikam Khan v. State of Uttar Pradesh**, 2021 SCC OnLine SC 1256 Court acquitted three death row convicts on the ground that prosecution failed to discharge its burden to prove its case beyond reasonable doubt.
4. **Khushi Ram v. Nawal Singh**, 2021 SCC OnLine SC 128 A compromise decree passed by a court in respect of immovable property which is subject matter of the suit would ordinarily be covered by Section 17(1)(b) of the Registration Act and would not require registration. But if the compromise is entered into in respect of an immovable property other than the subject- matter of the suit or proceeding would be covered under Section 17 (2) (vi) of the Registration Act and the same would require registration.
5. **Iqbal Basith v. N. Subbalakshmi**, (2021) 2 SCC 718 Adverse presumption u/s 114(g) of the Evidence Act can be drawn against the defendant if he does not present himself for cross-examination and refuses to enter witness box in order to refute the allegations made against him or support his pleadings in his written statement. Where in suit for permanent injunction, plaintiff had proved his possessory title over the suit property, though not the full title, and the defendant had failed to prove any title to the suit property, it has been held by the Supreme Court that the plaintiff's suit deserved to be decreed against the interference of the defendant with the plaintiff's possession over the suit property
6. **Bijendar v. State of Haryana**, 2021 SCC OnLine SC 1028 The doctrine of extending benefit of doubt to an accused, notwithstanding the proof of a strong suspicion, holds its fort on the premise that "the acquittal of a guilty person constitutes a miscarriage of justice just as much as the conviction of the innocent".

7. **Rattan Singh v. Nirmal Gill**, 2020 SCC OnLine SC 936 The standard of proof required in a civil dispute is preponderance of probabilities and not beyond reasonable doubt. The court held that for invoking Section 17 of the Limitation Act, 1963, two ingredients i.e. existence of a fraud and discovery of such fraud, have to be pleaded and duly proved and that in case of failure to establish the existence of fraud, there is no occasion for its discovery. Opinion of an expert is not binding piece of evidence if not corroborated by other pieces of evidence.
8. **Ratnagiri Nagar Parishad v.. Gangaram Narayan Ambekar**, (2020) 7 SCC 275 Specific Relief Act, 1963 — Ss. 34, 35, 38, 39 and 41 — Declaratory relief with suit for injunction simpliciter — When necessary: Where bare injunction suit has been filed to restrain State Authorities from acting in a particular manner without seeking declaratory relief as to illegality of orders/actions of State Authorities based on which State Authorities were seeking to act, said bare injunction suit was not maintainable, as no government order can be ignored altogether unless a finding is recorded that it was illegal, void or not in consonance with law.
9. **Sugandhi v. P.Rajkumar**, (2020) 10 SCC 706 Where the documents were missing and could not be filed by the defendant at the time of filing of his written statement and were sought to be produced at the time of final hearing, explaining the provisions of Order 8, rule 1A (3) and Order 13, rule 1 CPC, it has been held by the Supreme Court that as the defendant had shown cogent reasons for not filing the said documents along with his written statement and the documents were necessary for arriving at just decision in the suit, permission to produce the documents should have been granted.
10. **Bhagwat Sharan v. Purushottam**, (2020) 6 SCC 387 Admission of a party is only a piece of evidence and not conclusive of the fact admitted. Where there is no clear-cut admission as to the fact concerned, it would be of no consequence.
11. **Jagmail Singh v. Karamjit Singh**, (2020) 5 SCC 178 Exhibited documents and their admissibility in evidence. Factual foundational evidence must be adduced showing reasons for not furnishing evidence. Mere admission in evidence and making exhibit of a document not enough as the same has to be proved in accordance with law.
12. **Ravinder Kumar Grewal v. Manjit Kaur**, (2020) 9 SCC 706 A memorandum of family settlement or family arrangement requires compulsory registration as per Section 17 (2) (v) of the Registration Act, 1908 only when it creates or extinguishes for the first time any right, title or interest in an immovable property among the family members. If it records only pre-existing right in the immovable property or arrangement or terms already settled between the parties in respect of the immovable property, it does not require registration.
13. **Nand Ram v. Jagdish Prasad**, (2020) 9 SCC 393 Document brought on record but not proved cannot be read in evidence.
14. **C. Doddanarayana Reddy v. C. Jayarama Reddy**, (2020) 4 SCC 659 Authenticity of entries of public document like school register or T.C. may be tested by court.
15. **Mohd. Yusuf v. Rajkumar**, (2020) 10 SCC 264 [Compromise decree comprising immovable property which is the subject-matter of the suit or proceeding in question, held, does not require

registration. It is only a compromise decree comprising immovable property other than that which is the subject-matter of suit or proceeding in question, which requires registration.

16. **Vimla Devi v. National Insurance Company Limited**, (2019) 2 SCC 186 Non-exhibition of documents is only a procedural lapse. Non-exhibition of documents cannot disentitle a claim when otherwise sufficient evidence is adduced and the documents established the fact in controversy.
17. **Kamal Kumar v. Premlata Joshi**, (2019) 3 SCC 704 Whether the plaintiff is entitled for grant of any other alternative relief, namely, refund of the earnest money etc. and, if so, on what grounds. To avail relief of specific performance, parties are required to plead and prove all statutory requirements prescribed under the provisions of Sections 16(c), 20, 21, 22 & 23 of the Specific Relief Act, 1963 and Forms 47 & 48 of Appendix A to C of the CPC.
18. **Yashwant Sinha v. Central Bureau of Investigation**, (2019) 6 SCC 1 Secret documents relating to Rafale fighter jets were removed/stolen from the custody of the Ministry of Defence, Govt. of India and their photocopies were produced before the Supreme Court. The objection raised before the Supreme Court by the Central Govt. was that the secret stolen documents were not admissible in evidence. The Supreme Court held that all the documents in question were admittedly published in newspapers and thus already available in public domain. No law specifically prohibits placing of such secret documents before the Court of law to adjudicate legal issues. Matter involved complaint against commission of grave wrong in the highest echelons of power. Review petition could be adjudicated on merits by taking into account the relevance of the documents.
19. Section 123 of the Evidence Act relates to the affairs of the State. Claim of immunity u/s 123 has to be adjudged on the touchstone that the public interest is not put to jeopardy by requesting disclosure of any secret document. Documents in question (stolen papers of the Rafale fighter jets from the Ministry of Defence, Govt. of India) being in public domain were already within the reach and knowledge of the citizens. The Supreme Court held that the claim of immunity u/s 123 of the Evidence Act raised by the Central Govt. was not tenable and the documents in question were admissible as evidence.
20. **Mallikarjun v. State of Karnataka**, (2019) 8 SCC 359 S. 372 proviso introduced w.e.f. 31-12-2009] and Ss. 2(wa), 2(d) and 378 — Right of victims to appeal against acquittal: Nature, Scope and Applicability of right of “victim” as defined in S. 2(wa) to appeal against acquittal under S. 372 proviso, explained.
21. **Smt. Bhimabai Mahadeo Kambekar v. Arthur Import and Export Company**, (2019) 3 SCC 191 Revenue record is not a document of title. It merely raises a presumption of possession u/s 110 of the Evidence Act.
22. **State of Andhra Pradesh v. Pullagummi Kasi Reddy Krishna Reddy @ Rama Krishna Reddy and others**, (2018) 7 SCC 623 **Murder trial**: In this case due to rivalry between two factions in village led to attack using country-made bombs, hunting sickles and iron pipes and there was death of four persons but all respondent-accused were acquitted by High Court. It was held by the Supreme Court that the High Court erred in eschewing testimonies of witnesses in toto. Minor contradictions and omissions in evidence of witnesses were to be ignored. All eyewitnesses including one who turned hostile consistently spoke about attack on one deceased and his supporters. Witness who gave

vivid description of incident was corroborated by other witnesses. However, on oral evidence of witnesses and medical evidence, High Court rightly acquitted some respondents giving them benefit of doubt but acquittal of other respondents by High Court, set aside, convicting them under S. 302 IPC and sentencing them to undergo life imprisonment.

23. **State of Himachal Pradesh v. Raj Kumar**, (2018) 2 SCC 69 The court while allowing the appeal held: (i) In his evidence, son of deceased stated that he was threatened by the Accused to make telephonic call to his maternal uncle that deceased person had run away from the house and under such threat the son informed accordingly. The deceased person was living with her brother-in-law/accused along with her children. If deceased person was so missing, the natural conduct of the Accused was to inform the police. But that was not done. Burden is cast upon the accused, being the inmate of the house to give a cogent explanation as to how deceased person died. No reasonable explanation was forthcoming from the Accused as to why he had neither lodged the complaint nor informed the police about the missing of deceased person. The Respondent-Accused being inmate of the house cannot get away by simply keeping quiet and offering no explanation. This was a strong militating circumstance against the Respondent indicating that he might be responsible for the commission of the offence. The motive attributed to the Accused was that he had frequently quarrelled with the deceased and also assaulted her. A dispute was also suggested pertaining to the land of one Swami who wanted to give his property solely to the deceased which was not acceptable to the accused. (ii) The High Court was not right in doubting the version of deceased's son on the ground that he made improvements in his version. His evidence could not be doubted simply because names of Ramesh Kumar and Om Prakash were not mentioned in his statement. Deceased's son was already threatened by Accused Om Parkash to inform his maternal uncle that deceased had run away. When deceased's son statement was recorded, he must have been in trauma and fear psychosis. In such circumstances, omission to mention the names of Om Parkash and Ramesh Kumar in his statement does not render his evidence untrustworthy.
24. **Mukesh v. State (NCT of Delhi)**, (2017) 6 SCC 1 (Nirbhaya Case) The Court concluded that the evidence of the informant was unimpeachable and it deserved to be relied upon. The Accused persons along with the juvenile in conflict with law were present in the bus when the prosecutrix and her friend got into the bus. There was no reason to disregard the CCTV footage, establishing the description and movement of the bus. The arrest of the Accused persons from various places at different times was proved by the prosecution. The personal search, recoveries and the disclosure leading to recovery were in consonance with law and the assail of the same on the counts of custodial confession made under torture and other pleas were highly specious pleas and they did not remotely create a dent in the said aspects. That apart, the dying declaration by gestures was proved beyond reasonable doubt. There was no justification to think that the informant and the deceased would falsely implicate the Accused and leave the real culprits. The dying declarations made by the deceased received corroboration from the oral and documentary evidence and also enormously from the medical evidence.
25. **Krishnegowda v. State of Karnataka**, (2017) 13 SCC 98 It is settled law that mere laches on the part of Investigating Officer itself cannot be a ground for acquitting the accused. If that is the basis,

then every criminal case will depend upon the will and design of the Investigating Officer. The Courts have to independently deal with the case and should arrive at a just conclusion beyond reasonable doubt basing on the evidence on record. Once there is a clear contradiction between the medical and the ocular evidence coupled with severe contradictions in the oral evidence, clear latches in investigation, then the benefit of doubt has to go to the accused. The finding of the High Court that the ocular evidence and the medical evidence are in conformity with the case of prosecution to convict the accused, was incorrect. The High Court brushed aside the vital defects involved in the prosecution case and in a very unconventional way convicted the Accused. The judgment of the High Court was set aside and the order of acquittal passed by the Trial Court was re-affirmed,

26. **Sudha Renukaiah v. State of Andhra Pradesh**, (2017) 13 SCC 81 Held, while allowing the appeal:
(i) The fact that weapon was not shown to the Doctor nor in the cross-examination attention of the Doctor was invited towards the weapon, was not of much consequence in the facts of the present case where there was clear medical evidence that injuries could be caused by knife, axe and battle axe. When there are eye-witnesses including injured witness who fully support the prosecution case and proved the roles of different accused, prosecution case cannot be negated only on the ground that it was a case of group rivalry. (ii) Present was a case where the High Court exercised its appellate power Under Section 386 Code of Criminal Procedure In exercise of Appellate power Under Section 386 Code of Criminal Procedure the High Court has full power to reverse an order of acquittal and if the Accused are found guilty they can be sentenced according to law. Present was a case where reasoning of the Trial Court in discarding the evidence of injured witness and other eye-witnesses were found perverse. The High Court did not commit any error in reversing the order of acquittal and convicted the accused. From the eye-witnesses account and for the reasons given by the High Court in its judgment, the High Court was correct in setting aside the order of acquittal and convicting the Accused.
27. **Jose v. Sub-Inspector of Police**, (2016) 10 SCC 519 The accused has a right to rebut the presumption of guilt and it is only when prosecution establishes that the accused was present along with the victim at the time of commission of offence, only then section 106 could apply.
28. **Gajanan Dashrath Kharate v. State of Maharashtra**, (2016) 4 SCC 604 Initial burden to establish case is on the prosecution, but in view of the provisions of section 106 of the Evidence Act the corresponding burden lies also on the inmates of the house to cogently explain how crime was committed.
29. **Bhagwan Jagannath Markad v. State of Maharashtra**, (2016) 10 SCC 537 Burden of proof is always on prosecution and accused is presumed to be innocent unless proved guilty. Prosecution has to prove its case beyond reasonable doubt and accused is entitled to benefit of reasonable doubt. The reasonable doubt is one which occurs to a prudent and reasonable man. S. 3, Evidence Act, refers to two situations in which a fact is said to be proved: (i) when a person feels absolutely certain of a fact i.e. “believes it to exist”, and (ii) when he is not absolutely certain and thinks it so extremely probable that a prudent man would, under the circumstances, act on the assumption of its existence. The doubt which the law contemplates is not of a confused mind but of prudent man who is assumed to possess

the capacity to separate the chaff from the grain. The degree of proof need not reach certainty but must carry a high degree of probability.

30. **Sheikh Zahid Mukhtar v. State of Maharashtra**, SCC OnLine Bom 2600 (2016) Laid down various tests or sustaining a reverse burden in a criminal trial as constitutionally valid.
31. **Pawan Kumar v. State of Uttar Pradesh**, (2015) 7 SCC 148 Criminal - Conviction - Circumstantial evidence - Sections 149 and 302 of Indian Penal Code, 1860 - Present appeal filed against order whereby Appellants were convicted for offence punishable under Sections 149 and 302 of Code - Whether prosecution had established beyond reasonable doubt complete chain of events which pointed at guilt of accused - Held, Accused Nos. 4 & 7 disclosed names of their co-accused at whose instance various incriminating materials including pistols, cartridges, bullets, blood stained articles were recovered - Confession given by accused was not basis for courts below to convict accused, but it was only source of information to put criminal law into motion - Hence, accused could not take shelter under Section 25 of Evidence Act - Motive behind brutal murder of deceased as brought forward by prosecution was trustworthy in light of material available on record - Merely because all bullets fired from gun did not hit target and were not recovered from scene of offence, was no ground to conclude that incident did not take place - Nexus between accused as well as their participation in crime is well established beyond reasonable doubt and nothing on record to suggest that accused were unnecessarily implicated by police - Entire evidence brought on record by prosecution, was not only convincing, but was also trustworthy - Prosecution had established beyond reasonable doubt complete chain of events which points at guilt of accused - Therefore, impugned order of conviction was sustainable and required no interference - Appeal dismissed
32. **Tomaso Bruno v. State of U.P.**, (2015) 7 SCC 178 The initial burden lies on the prosecution to establish that the person concerned was in a position such that he could have special knowledge of any fact.
33. **Municipal Corporation, Gwalior v. Puran Singh**, (2015) 5 SCC 725 Khasra entries are not proof of title and ownership of land.
34. **Union of India v. Vasavi Co-operative Housing Society Limited**, (2014) 2 SCC 269. Held, in a suit for declaration of title and for possession, burden always lies on the plaintiff to make out and establish his case by adducing sufficient evidence and the weakness, if any, of the case set up by the defendants would not be a ground to grant relief to plaintiff. In the instant case, trial court as well as High Court rather than examining in depth, the question, as to whether the plaintiffs have succeeded in establishing their title to the suit land, went on to examine in depth the weakness of defendants' title. Plaintiffs have not succeeded in establishing their title and possession of the suit land. Judgment of trial court, affirmed by High Court, is set aside.
35. **Sebastiao Luis Fernandes v. K.V.P. Shastri**, (2013) 15 SCC 161 Burden of proof is used in three ways: (i) to indicate the duty of bringing forward evidence in support of a proposition at the beginning or later; (ii) to make that of establishing a proposition as against all counter evidence; and (iii) an indiscriminate use in which it may mean either or both of the others
36. **Ayaaubkhan Noorkhan Pathan v. State of Maharashtra**, (2013) 4 SCC 465 In view of the amended provisions of Order 19, rule 1-A CPC w.e.f. 10.2.1981, evidence on affidavit can be

received by court where the case has proceeded ex-parte. In such cases the court may permit the plaintiff to adduce his evidence on affidavit.

37. **Darbara Singh v. State of Punjab**, 2012 (10) SCC 476 Held that so far as the question of inconsistency between the medical evidence and the ocular evidence is concerned, the law is well settled that, unless the oral evidence available is totally irreconcilable with the medical evidence, the oral evidence would have primacy. In the event of contradictions between medical and ocular evidence, the ocular testimony of a witness will have greater evidentiary value vis-à-vis medical evidence and when medical evidence makes the oral testimony improbable, the same becomes a relevant factor in the process of evaluation of such evidence. It is only when the contradiction between the two is so extreme that the medical evidence completely rules out all possibilities of the ocular evidence being true at all, that the ocular evidence is liable to be disbelieved.
38. **K.K. Velusamy v. N. Palanisamy**, (2011) 11 SCC 275 The court examined the power of the courts with regard to re-opening the evidence and recalling witnesses. The court while examining the relevant provisions of the Code of Civil Procedure, 1908 has culled out the principles for invoking the inherent powers of the court.
39. **Kapil Core Packs Pvt. Ltd v. Harvansh Lal**, (2010) 8 SCC 452 According to Rule 54 of the General Rules (Civil), when a certified copy of any private document is produced in Court, inquiry shall be made from the opposite party whether he admits that it is a true and correct copy of the document which he denies, or whether it is a true and correct copy of the document the genuineness of which he admits without admitting the truth of its contents, or whether he denies the correctness of the copy as well as of the document itself. Admission of the genuineness of a document is not to be confused with the admission of the truth of its contents or with the admission that such document is relevant or sufficient to prove any alleged fact.
40. **LIC of India v. Ram Pal Singh Bisen**, (2010) 4 SCC 491 Mere admission of a document in evidence does not amount to its proof. In other words, mere marking of exhibit on a document does not dispense with its proof which is required to be done in accordance with law.
41. **Kumar Exports v. Sharma Carpets**, AIR 2009 SC 1518 "Presumption" is an inference, affirmative or negative, of the truth or falsehood of a doubtful fact, drawn by a process of probable reasoning from something proved or taken for granted.
42. **Noor Aga v. State of Punjab and Another**, (2008) 16 SCC 417 Section 35 and 54 of the Narcotics Act which imposes a reverse burden on the accused is constitutional as the standard of proof required for the accused to prove his innocence is not as high as that of the prosecution." "Confessional statement is admissible only under Section 138 B, Customs Act if all the essential ingredients mentioned there in is satisfied.
43. **P.R. Metrani v. Commissioner of Income Tax, Bangalore**, (2007) 1 SCC 789 A presumption is an inference of fact drawn from other known or proved facts. It is a rule of law under which courts are authorised to draw a particular inference from a particular fact. It is of three types, (i) "may presume", (ii) "shall presume" and (iii) "conclusive proof". "May presume" leaves it to the discretion of the court to make the presumption according to the circumstances of the case. "Shall presume" leaves no option with the court not to make the presumption. The court is bound to take the fact as

proved until evidence is given to disprove it. In this sense such presumption is also rebuttable. “Conclusive proof” gives an artificial probative effect by the law to certain facts. No evidence is allowed to be produced with a view to combating that effect. In this sense, this is irrebuttable presumption.

44. **Manager, Reserve Bank of India, Bangalore v. S. Mani**, (2005) 5 SCC 100 Non-denial of or non-response to a plea that is not supported by evidence cannot be deemed to be admitted by applying the doctrine of non-traverse. The Evidence Act does not say to the contrary. Pleadings are not substitute for proof.
45. **Bhupender sharma v. State of Himachal Pradesh**, (2003) 8 SCC 551 Indian Penal Code, 1860 - Section 376 (2) (i) (g) with Explanation (1)--Rape--Gang rape--Corroboration of evidence of victim not to be insisted on as it would be adding insult to injury--Trial court convicting and sentencing accused appellant for gang rape to 4 years on ground that he did not actually commit rape--High Court enhancing sentence to minimum 10 years as prescribed--Whether justified?--Held, "yes"--Ground for reducing sentence from minimum prescribed given by trial court untenable.
46. **Bodhisattwa Gautam v. Subhra Chakraborty**, AIR 1996 SC 922 Criminal - sexual assault - Sections 312, 376, 420, 493, 496 and 498-A of Indian Penal Code, 1860, Articles 21, 32, 38 (1) of Constitution of India and Section 114-A of Indian Evidence Act, 1872 - complaint registered against accused under Sections 312, 420, 493, 496 and 498-A - accused induced complainant and cohabited with her giving her false assurance of marriage - he had also gone through certain marriage ceremony with knowledge that it was not valid marriage and thereby dishonestly made complainant to believe that she was lawfully married wife of accused - accused even committed offence of miscarriage by compelling complainant to undergo abortion twice against her free will - in such cases no strict legal compulsion to look for corroboration of evidence of prosecutrix before recording Order of conviction - proceedings against accused cannot be quashed - till criminal proceedings are pending accused bound to pay compensation to complainant.
47. **Prem Lata v. Arhant Kumar Jain**, AIR 1973 SC 626 When both sides had adduced evidence, the question of burden of proof pales into insignificance.
48. **Narayan v. Gopal**, AIR 1960 SC 100 Where parties have joined the issue and have led evidence and such conflicting evidence can be weighed to determine which way the issue can be decided, the question of burden of proof become academic.
49. **Kalua v. State of Uttar Pradesh**, 1958 AIR 180 Firearm Expert Evidence - Circumstantial Evidence - Firearm expert examined which conclusively proved that the cartridge had been fired from the pistol of the appellant - Circumstantial evidence sufficient to establish the guilt of the appellant - Appeal dismissed.

SESSION 9

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- ✓ Manohar Lal Sharma v. Union of India and Others, 2021 SCC OnLine SC 985
- ✓ A v. State of Uttar Pradesh and Another, (2020) 10 SCC 505
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- ✓ Videos of Sexual Violence and Recommendations, In Re, (2018) 15 SCC 551
- ✓ Christian Louboutin v. Nakul Bajaj & Ors., (2018) 253 DLT 728
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- ✓ Ramesh Rajagopal v. Devi Polymers Pvt. Ltd., (2016) 6 SCC 310
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- ✓ Nasscom v. Ajay Sood, (2005) 119 DLT 596
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SESSION 12
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