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	as the officers of the Court and not as mouthpieces of their respective clients. While recording the statement under Section 313 of CrPC in cases involving a large number of prosecution witnesses, the Judicial Officers will be well advised to take benefit of subsection (5) of Section 313 of CrPC, which will ensure that the chances of committing errors and omissions are minimized.
4.	***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
5.	***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.
6.	***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.
7.	***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.
8.	***V.N. Patil v. K. Niranjan Kumar, (2021) 3 SCC 661*** Discretionary power under Section 311 CrPC has to be exercised judiciously for strong and valid reasons, with caution and circumspection to meet the ends of justice.
9.	***Gangadhar v. State of M.P., (2020) 9 SCC 202*** The court acquitted the man accused in possession of 48Kgs 200gms of ganja(Cannabis) and held that Right to fair Investigation is a Right to Fair Trial guaranteed to accused under Article 21 of the Constitution of India.
10.	***Mahender Chawla & Ors. v. Union of India & Ors., 2018 SCC Online SC 2678*** The Court directed the Union of India, as well as States and Union Territories, shall enforce the Witness Protection Scheme, 2018. The Court directed that it shall be the 'law' under Article 141/142 of the Constitution until a suitable legislation is enacted on the subject. In line with the aforesaid provisions contained in the Scheme, in all the district courts in India, vulnerable witness deposition complexes shall be set up by the States and Union Territories.
11.	***Imtiyaz Ramzan Khan v. State of Maharashtra, (2018) 9 SCC 160*** Access to legal aid includes video conferencing facility in order to enable dialogue between the accused and the legal counsel
12.	***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
13.	***Ajay Singh v. State of Chhattisgarh, 2017 SCC OnLine SC 24*** 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.
14.	***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.
15.	***Ratanlal v. Prahlad Jat, (2017) 9 SCC 340*** Power under Section 311 CrPC must be exercised with caution and circumspection and only for strong and valid reasons which are to be spelt out in order.
16.	***Youth Bar Association of India v. Union of India, (2016) 9 SCC 473*** The Supreme Court held that an accused is entitled to a copy of the FIR before the stage of disclosure arises under Section 207 of the Cr.P.C. Towards this, the person can make an application seeking a copy before the concerned police station or court, and she must be supplied with a copy of the FIR within 24 hours (if from police) and within 2 working days (if from court). The Court also directed all state police agencies to upload FIRs online. At the same time, it recognised exceptions if an officer of the level of a Deputy Superintendent of Police decided that a specific FIR was "sensitive" (as it is illustratively explained in the judgment). For such cases, disclosure of the FIR becomes an issue of official discretion, and the police were directed to constitute a committee to handle requests for sharing the FIR which had been initially deemed "sensitive"
17.	***State (NCT of Delhi) v. Shiv Kumar Yadav, (2016) 2 SCC 402*** Recall of witnesses under Section 311 CrPC has to be *bona fide*. Mere incompetence/ change of counsel cannot be a ground to recall witnesses. Power to be exercised judiciously to prevent failure of justice and has to be balanced with other relevant considerations including hardship to witnesses and delay in trial.
18.	***Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*** Criminal Procedure Code, 1973 — Ss. 154, 156(1) & (3) and 36 — Non-registration of FIR or improper investigation by police — Remedy in matters of: Remedy in such matters does not lie before High Court under Art. 226 of Constitution but before Magistrate concerned under S. 156(3) CrPC. If on an application under S. 156(3) CrPC, Magistrate is prima facie satisfied, he can: (i) direct registration of FIR, (ii) if FIR has already been registered, issue a direction for proper investigation to be made, which includes, if he deems it necessary, recommending change of investigating officer, and can also (iii) monitor the investigation.
19.	***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.
20.	***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.
21.	***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
22.	***Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273**
23.	***Natasha Singh v. CBI, (2013) 5 SCC 741*** Only issue to be considered at Section 311 CrPC stage is whether the evidence proposed to be adduced is relevant or not. Court can weigh the evidence only where the same has been laid before it and brought on record.
24.	***Mohammed Ajmal Mohammad Amir Kasab v. State of Maharashtra, AIR 2012 SC 3565*** The magistrate is duty bound to inform the accused of his right to consult a lawyer of choice and in case the accused in 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.
25.	***P. Ramachandra Rao v. State of Karnataka, (2012) 9 SCC 430*** The Apex Court laid down certain factors to identify whether an accused has been deprived of his Right to Speedy Trial, which includes length of delay, the justification for the delay, the accused assertion of his Right to Speedy Trial, and prejudice caused to the accused by such delay. If nothing is shown and there are no circumstances to raise a presumption that the accused had been prejudiced there will be no justification to quash the conviction on the ground of delayed trial only. The court also laid down certain guidelines and held that the powers conferred under Sections 309, 311 and 258 of the Code of Criminal Procedure shall be exercised by the criminal courts to effectuate the Right to Speedy Trial. To seek appropriate relief and directions, the jurisdiction of the High Court under Section 482 of Cr. P.C. and Articles 226 and 227 of the Constitution can be invoked
26.	***Vijay Kumar v. State of U.P., (2011) 8 SCC 136*** Power under Section 311 CrPC should be exercised provided the evidence which may be tendered by a witness is germane to the issue involved or if proper evidence is not adduced or relevant material is not brought on record due to any inadvertence.
27.	***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.

28.	***Manu Sharma v. State (NCT of Delhi), (2010) 6 SCC 1*** Basic concept behind a fair trial is succinctly explained
29.	***Babubhai v. State of Gujarat, (2010) 12 SCC 254*** The Supreme Court observed that not only fair trial but fair investigation is also part of constitutional rights guaranteed under Articles 20 and 21 of the Constitution of India. Therefore, investigation must be fair, transparent and judicious as it is the minimum requirement of rule of law. The investigating agency cannot be permitted to conduct an investigation in a tainted and biased manner. Where non-interference of the court would ultimately result in failure of justice, the court must interfere. In such a situation, it may be in the interest of justice that independent agency chosen by the High Court makes a fresh investigation.
30.	***Nirmal Singh Kehlon vs. State of Punjab, (2009) 1 SCC 441*** The Supreme Court observed that fair investigation and fair trial are concomitant to preservation of fundamental right of an accused under Article 21 of the Constitution of India. But the State has a larger obligation i.e. to maintain law and order, public order and preservation of peace and harmony in the society. A victim of a crime, thus, is equally entitled to a fair investigation.
31.	***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 sub serve the cause of justice.
32.	***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
33.	***Zahira Habibullah Sheikh and Ors. v. State of Gujarat and Ors, (2006) 3 SCC 374*** The Supreme Court observed that 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.
34.	***Shingara Singh v. State of Haryana, (2003) 12 SCC 758*** When the period of deprivation pending trial becomes unduly long, the fairness assured in Article 21 would receive a jolt and also discussed the impact of delay at the appeal stage
35.	***State of Maharashtra v. Praful B. Desai, (2003) 4 SCC 601*** Recording of evidence by way of video conferencing is permissible so long as the accused and/or his pleader are present when the evidence is recorded. Such recording of evidence would satisfy the object of Section 273 CrPC.
36.	***Durga Datta Sharma v. State, 2003 SCC OnLine Gau 153*** The petitioner has been deprived for the constitutional right of getting a speedy trial and that the accused persons had already suffered a lot both mentally and physically during the last 25 years, the Court dropped all charges against the accused
37.	***Shailendra Kumar v. State of Bihar, (2002) 1 SCC 655*** Section 311 is of wide amplitude and if there is any negligence, laches or mistakes by not examining material witnesses, the court's function to render just decision by examining such witnesses at any stage is not in anyway impaired.

38.	***Rajendra Prasad v. Narcotic Cell, (1999) 6 SCC 110*** Power under Section 311 CrPC cannot be exercised to fill up lacuna in prosecution case. Lacuna is the inherent weakness or a latent wedge in the prosecution case. Oversight or mistakes in conducting case cannot be understood as lacuna of prosecution case and hence, the same can be corrected
39.	***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.
40.	***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.
41.	***Abdul Rehman Antulay v. R.S. Nayak, (1992) 1 SCC 225*** Right to a speedy trial under Article 21 is available at all stages namely, the stage of investigation, inquiry, trial, appeal, revision and retrial. The Court laid down detailed guidelines for the speedy trial of an accused in a criminal trial but refused to set a time limit for the conclusion of the trial. The Court held that the nature of the offence and the circumstances may be such that quashing of proceedings may not be in the interest of justice. In such a case it may make an order that the trial may be concluded within a fixed time and reduce the sentence
42.	***Mohanlal Shamji Soni v. Union of India, AIR 1991 SC 1346*** Power of the court to summon, examine recall and reexamine any witness or person present- Provision is in two parts, the first being discretionary and the second being obligatory. The court's power is exercisable at any stage so long as the court is in seisin of the proceeding. Power is not unguided; has to be exercised *bona fide,* fairly and non-arbitrarily, with circumspection and in the exigency of the situation to be essential for a just decision of the case. Accused is entitled to fair and reasonable opportunity to rebut the evidence brought on record against him pursuant to the exercise of such power.
43.	***Sheela Barse v. Union of India, (1986) 3 SCC 596*** If an accused is not tried speedily and his case remains pending before the Magistrate or the Sessions Court for an unreasonable length of time, it is clear that his fundamental Right to Speedy Trial would be violated unless there is some interim order passed by the superior Court or deliberate delay on the part of the accused. The consequence of such a delay would be that the prosecution would be liable to be quashed
44.	***State of Maharashtra v. Champalal Punjaji Shah, (1981) 3 SCC 610*** While deciding the question of whether there has been a denial of the right to a speedy trial, the Court is entitled to take into consideration whether the delay was unintentional, caused by overcrowding of the court's docket or understaffing of the prosecutors and whether the accused contributed a fair part to the time taken
45.	***Hussainara Khatoon (I) v. Home Secy., State of Bihar, (1980) 1 SCC 81*** The "right to a speedy trial" is a fundamental right implicit in the right of life and personal liberty provided under Article 21 of the Indian Constitution. The court-mandated greater access to bail, more humane living standards and a significant reduction in time from arrest to trial. Speedy trial is of the essence of criminal justice and there can be no doubt that delay in trial by itself constitutes denial of justice. It is interesting to note that in the United States, speedy trial is one of the constitutionally guaranteed rights

46.	***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.	
47.	***Hussainara Khatoon & Ors vs Home Secretary, State Of Bihar, AIR 1979 SC 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.	
48.	***Mrs. Shakila Khader and Ors. v. Nausheer Cama and Ors., AIR 1975 SC 1324*** Only prosecution witness can be contradicted by reference to their statement made to the police and not court witness or defence witness.	
49.	***Raghunandan v. State of U.P., AIR 1974 SC 463*** Duty of court to ensure that essential questions are, as far as possible, not left unanswered	
50.	***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.	
51.	***Jamatraj Kewalji Govani v. State of Maharashtra, AIR 1968 SC 178*** Wide Discretion conferred on the judge to act in the aid of justice.	
52.	***State of Uttar Pradesh v. Bhagwant Kishore Joshi, AIR 1964 SC 221*** Investigation, in substance, means collection of evidence relating to the commission of the offence. The Investigating Officer is, for this purpose, entitled to question persons who, in this opinion, are able to throw light on the offence which has been committed and is likewise entitled to question the suspect and is entitled to reduce the statements of persons questioned by him to writing. He is also entitled to search the place of the offence and to search other places with the object of seizing articles connected with the offence. No doubt, for this purpose he has to proceed to the spot where the offence was committed and do various other things. But the main object of investigation being to bring home the offence to the offender the essential part of the duties of an investigating officer in this connection is, apart from arresting the offender, to collect all material necessary for establishing the accusation against the offender. Merely making some preliminary enquire upon receipt of information from an anonymous source or a source of doubtful reliability for checking up the correctness of the information does not amount to collection of evidence and so cannot be regarded as investigation	
SERIAL NO.	**SESSION 2** **BAIL JURISPRUDENCE: NUANCES & INTRICACIES**	**PAGE NO.**
1.	Lokendra Malik and Shailendra Kumar, ***Personal Liberty Versus Societal Interest: The State of Bail Jurisprudence in India*** in TAKING BAIL SERIOUSLY THE STATE OF BAIL JURISPRUDENCE IN INDIA 405-26 (Salman Khurshid, Sidharth Luthra, Lokendra Malik & Shruti Bedi, Lexis Nexis ed., 2020).	
2.	A.M. Singhvi, ***India's Bail Jurisprudence: Need for Urgent and Comprehensive Revamp,*** in TAKING BAIL SERIOUSLY – THE STATE OF BAIL JURISPRUDENCE IN INDIA, ed. Salman Khurshid *et al.* (Lexis Nexis, Gurgaon,2020)	
3.	Dipa Dube, ***Judicial Discretion in Grant of Bail*** in TAKING BAIL SERIOUSLY THE STATE OF BAIL JURISPRUDENCE IN INDIA 97-112 (Salman Khurshid, Sidharth Luthra, Lokendra Malik & Shruti Bedi, Lexis Nexis ed., 2020)	

4.	Sidharth Luthra and Aayushi Sharma Khazanchi, ***Seeking Consistency in Bail Jurisprudence*** in TAKING BAIL SERIOUSLY THE STATE OF BAIL JURISPRUDENCE IN INDIA 215-224 (Salman Khurshid, Sidharth Luthra, Lokendra Malik & Shruti Bedi, Lexis Nexis ed., 2020)	

CASE LAW

(Judgments mentioned below includes citation and short note for reference and discussion purpose during the course of the programme. Please refer the full judgment for conclusive opinion)

1.	***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 charge sheet
2.	***Talat Sanvi v. State of Jharkhand, 2023 SCC OnLine SC 103*** It was held that interim victim compensation cannot be imposed as a condition for bail
3.	***In Re: Policy Strategy for Grant of Bail, 2022 SCC OnLine SC 1487*** Guidelines issued with respect to disposal of criminal cases by resorting to the triple method of plea bargaining, compounding of offences and under the Probation of Offenders Act, 1958
4.	***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
5.	***Satender Kumar Antil v. C.B.I., 2022 SCC Online SC 825*** Guidelines with respect to Arrest and Bail while striking a balance between the rights of the accused and the interest of a criminal investigation
6.	***Naser Bin Abu Bakr Yafai v. State of Maharashtra, (2022) 6 SCC 308*** S. 167(2) CrPC where default bail claimed on ground that as charge-sheet was not filed within stipulated period by investigating agency which had jurisdiction to submit the same, and/or charge-sheet was not submitted in a proper court entrusted with jurisdiction, the accused had an indefeasible right to bail
7.	***Gopisettey Harikrishna v. State of Andhra Pradesh, 2022 SCC Online SC 654*** The Supreme Court granted interim bail as the trial had not commenced for 9 years. However, the applicant could not be released as he was not produced by the jail authorities before the Magistrate and due to COVID-19 situation, and the Supreme Court again passed the order to release him on bail as he had already served 11 years
8.	***Jagjeet Singh v. Ashish Mishra, 2022 SCC Online SC 453*** If the right to file an appeal against acquittal, is not accompanied with the right to be heard at the time of deciding a bail application, the same may result in grave miscarriage of justice. Victims certainly cannot be expected to be sitting on the fence and watching the proceedings from afar, especially when they may have legitimate grievances. It is the solemn duty of a court to deliver justice before the memory of an injustice eclipses.
9.	***Ashim v. NIA, (2022) 1 SCC 695*** Art. 21 of the Constitution of India envisages that under trials cannot be detained indefinitely pending trial. Principles summarised regarding when Courts are obligated to enlarge them on bail

10.	***Saudan Singh v. State of Uttar Pradesh, 2022 SCC OnLine SC 697*** While granting bail to appellant the court observed: "The only issue is whether in a criminal appeal of the year 2012 pending before the High Court of Allahabad where criminal appeals in the normal course are being heard of the 1980s and the appellant having undergone 12 years of actual incarceration is still to be denied bail! The High Court seems to think so and, to say the least, we completely disagree". The bench also called for a report from the Registrar of the Luckow bench on the position of non-availability of a Bench to hear criminal appeals, and also how many applications are pending consideration of bail where the appeal is pending and the person incarcerated has spent more than 14 years in actual custody as also cases where they may have been in incarceration for more than 10 years
11.	***Manno Lal Jaiswal v. State of Uttar Pradesh and Another, 2022 SCC OnLine SC 89*** The Supreme Court observed that the High Court had applied wrong facts and that it had not taken into consideration the gravity and nature of offences committed by the accused. The Apex Court reiterated relevant considerations while considering a bail application
12.	***Imran v. Mohammed Bhava and Another, 2022 SCC OnLine SC 496*** Significant scrutiny is required at the instance of a superior court to cancel bail already granted by a lower court, the same could be done if relevant material, gravity of the offence or its societal impact were not considered by the lower court
13.	***Ishwarji Nagaji Mali v. State of Gujarat, (2022) 6 SCC 609*** Necessity of recording reasons: Though a court considering a bail application cannot undertake a detailed examination of evidence and an elaborate discussion on the merits of the case, but it has to indicate the prima facie reasons justifying the grant of bail. Hence, order granting bail bereft of any cogent reason(s) therefore, cannot be sustained
14.	***State of Maharashtra v. Pankaj Jagshi Gangar, (2022) 2 SCC 66*** S. 439 — Forum shopping to obtain bail: In this case, accused was charged under special Act and IPC. Vires of special Act under which accused was charged, was challenged and quashment of the proceedings was sought before High Court under Art. 226 of the Constitution, upon failure to obtain bail as per law. By impugned order, respondent was released on bail by High Court that too by way of interim relief, without at all considering seriousness of offences alleged against respondent, and other settled parameters for grant of bail in such cases. High Court did not at all even consider allegations with respect to offences under IPC. Such order, held, wholly impermissible. Hence, impugned order was quashed and respondent directed to surrender forthwith to face trial
15.	***Ravikant Srivastava @ Ravi Kant Shrivastava v. The State Of Jharkhand and Another, Criminal Appeal No. 1803/2022 arising out of SLP (Criminal) No. 1771/2022*** The Supreme Court sets aside a decision of the Jharkhand High Court to impose a precondition for anticipatory bail that the accused would have to deposit a Demand Draft of Rs. 10 lakhs as *ad interim* victim compensation in favour of his wife
16.	***Deepak Yadav v. State of U.P. and Another, 2022 SCC OnLine SC 672*** Court has the inherent powers and discretion to cancel the bail of an accused even in the absence of supervening circumstances - Illustrative circumstances where the bail can be cancelled cited
17.	***Meena Devi v. State of U.P. and Another, 2022 SCC OnLine SC 676*** Cancellation of Bail on account of lack of reason, mechanical recording of submissions and non- reflection of judicial mind by the Court while enlarging the accused on bail
18.	***P. v. State of Madhya Pradesh and Another, 2022 SCC OnLine SC 552***

	Where an order for grant of bail passed by the court below is found to be illegal or perverse or premised on material that is irrelevant, then such an order is susceptible to scrutiny and interference by the Appellate Court. Absence of cogent reasons and failure to refer to the relevant factors that weighed with the Court to grant bail is also an important factor that can persuade the Appellate Court to interfere with the order passed
19.	***Abhay Jain v. High Court of Judicature for Rajasthan and Another, 2022 SCC OnLine SC 319*** Held right of the accused to file bail application at any stage when undergoing imprisonment as an under-trial prisoner, and the fact that the two other co-accused had already been enlarged on bail was a valid reason for granting bail to accused
20.	***Y. v. State of Rajasthan and Another, 2022 SCC OnLine SC 458*** Reasoning is the life blood of the judicial system. That every order must be reasoned is one of the fundamental tenets of our system. An unreasoned order suffers the vice of arbitrariness. Parameters which must be considered while granting bail also discussed
21.	***Brijmani Devi v. Pappu Kumar, (2022) 4 SCC 497*** While considering bail applications, courts must exercise discretion in judicious manner and consider crime alleged to be committed by the accused on one hand and ensure purity of trial of the case on the other. While elaborating reasons may not be assigned for grant of bail, at the same time an order de hors reasoning or bereft of the relevant reasons cannot result in grant of bail and the same would entitle the prosecution or the informant to assail it before a higher forum
22.	***Kamla Devi v. State of Rajasthan, (2022) 6 SCC 725*** The Court deciding a bail application cannot completely divorce its decision from material aspects of the case such as the allegations made against the accused; severity of the punishment if the allegations are proved beyond reasonable doubt which would result in a conviction; reasonable apprehension of the witnesses being influenced by the accused; tampering of the evidence; the frivolity in the case of the prosecution; criminal antecedents of the accused; and a prima facie satisfaction of the Court in support of the charge against the accused
23.	***Manoj Kumar Khokhar v. State of Rajasthan, (2022) 3 SCC 501*** An order granting bail to an accused, if passed in a casual and cryptic manner, de hors reasoning which would validate the grant of bail, is liable to be set aside by this Court while exercising jurisdiction under Article 136 of the Constitution of India
24.	***Sunil Kumar v. State of Bihar, (2022) 3 SCC 245*** Considerations to be balanced while deciding to grant bail – Bail order passed in a mechanical and perfunctory manner set aside
25.	***Jaibunisha v. Meharban, (2022) 5 SCC 465*** Requirement of giving reasons in a bail order is the essence and is virtually a part of due process – Period of custody has to be weighed simultaneously with the totality of the circumstances and the criminal antecedents of the accused
26.	***Jayaben v. Tejas Kanubhai Zala (2022) 3 SCC 230*** Once order passed by High Court releasing accused on bail is found unsustainable, necessary consequences shall have to follow and bail has to be cancelled
27.	***Mohammad Azam Khan v. State of Uttar Pradesh, 2022 SCC OnLine SC 653*** Nature of offence and delay in registering FIR valid grounds for granting interim bail
28.	***Vijay Madanlal Choudhary v. Union of India, 2022 SCC OnLine SC 929***

	The provision in the form of Section 45 of the 2002 Act, as applicable post amendment of 2018, is reasonable and has direct nexus with the purposes and objects sought to be achieved by the 2002 Act and does not suffer from the vice of arbitrariness or unreasonableness. The Court further held that for grant of bail, irrespective of the nature of proceedings, including those under Section 438 of CrPC or even upon invoking the jurisdiction of Constitutional Courts, the underlying principles and rigours of Section 45 may apply
29.	***Sonu v. Sonu Yadav and Others, 2021 SCC OnLine SC 286*** Quality of reasoning more important than length of the reasoning while granting bail
30.	***Aparna Bhat v. State of M.P., 2021 SCC OnLine SC 230*** The judgment delved into the issue of gender stereotyping in judicial writing and prescribed the judges to be highly sensitive in their use of language as this is crucial for ensuring a fair trial – Guidelines for granting bail in sexual assault cases laid down
31.	***Dharmesh v. State of Gujarat, (2021) 7 SCC 198*** Can't impose compensation to victims as a bail condition
32.	***Nathu Singh v. State of U.P., (2021) 6 SCC 64*** The Court must balance the concerns of the investigative agency, complainant, and society at large with the applicant's concerns/interests, taking into consideration the legislative system under Section 438 of the Cr.P.C. notably the proviso to Section 438(1)
33.	***M. Ravindran v. Intelligence Officer Directorate of Revenue Intelligence, (2021) 2 SCC 485*** Courts cannot adopt a rigid or formalistic approach while interpreting Section 167(2) of Cr.P.C. – Default bail is an indefeasible right of the accused
34.	***Siddharth v. State of Uttar Pradesh, 2021 SCC OnLine SC 615*** The word "*custody"* in Section 170 doesn't imply Police or Judicial custody but, merely means presenting the accused before the court at the time when the charge sheet is filed – Not mandatory to arrest during filing of charge sheet – Anticipatory bail granted
35.	***Ramesh Bhavan Rathod v. Vishanbhai Hirabhai Makwana, (2021) 6 SCC 230*** Whether an order granting bail is a precedent on grounds of parity is a matter for future adjudication if and when an application for bail is moved on the grounds of parity on behalf of another accused…it is for that court before whom parity is claimed to determine whether a case for the grant of bail on reasons of parity is made out - The consent of parties cannot obviate the duty of the High Court to indicate its reasons why it has either granted or refused bail
36.	***Arnab Manoranjan Goswami v State of Maharashtra, (2021) 2 SCC 427*** Basic principle of criminal justice system is 'bail' not 'jail' – High Court must exercise its power under Article 226 to grant interim bail with caution and circumspection, cognizant of the fact that this jurisdiction is not a ready substitute for recourse to the remedy of bail under Section 439, Cr.P.C.- Factors for grant of bail/interim bail under Article 226 – Expeditious disposal of bail applications by resort to technology
37.	***Union of India v. K.A. Najeeb, (2021) 3 SCC 713)*** Presence of statutory restrictions like Section 43-D(5) of the UAPA per se does not oust the ability of the constitutional courts to grant bail on grounds of violation of Part III of the Constitution
38.	***Criminal Trials Guidelines Regarding Inadequacies and Deficiencies, In re., (2021) 10 SCC 598*** Directions issued regarding reformation and clarity of procedure and practices relating to investigation, prosecution, trial, evidence, judgment and bail. Draft Rules of Criminal Practice, 2021, to be finalised and

	read in terms of discussion in this order. All High Courts and State Governments should incorporate the Draft Rules of Criminal Practice, 2021 annexed to the present order read with clarifications and directions herein
39.	***Vipan Kumar Dhir v. State of Punjab and Another, 2021 SCC OnLine SC 854*** Court explained the principles governing cancellation of bail and has held that it is necessary that 'cogent and overwhelming reasons' are present for the cancellation of bail. "Conventionally, there can be supervening circumstances which may develop post the grant of bail and are non-conducive to fair trial, making it necessary to cancel the bail
40.	***Thwaha Fasal v. Union of India, 2021 SCC OnLine SC 1000*** The stringent conditions for grant of bail in sub-section (5) of Section 43D will apply only to the offences punishable only under Chapters IV and VI of the 1967 Act. The offence punishable under Section 13 being a part of Chapter III will not be covered by sub-section (5) of Section 43D and therefore, it will be governed by the normal provisions for grant of bail under the Criminal Procedure Code, 1973. The proviso imposes embargo on grant of bail to the accused against whom any of the offences under Chapter IV and VI have been alleged. The embargo will apply when after perusing charge sheet, the Court is of the opinion that there are reasonable grounds for believing that the accusation against such person is prima facie true. Thus, if after perusing the charge sheet, if the Court is unable to draw such a prima facie conclusion, the embargo created by the proviso will not apply
41.	***Sarvanan v. State, (2020) 9 SCC 101*** Court cannot impose condition of deposit of money while granting Default/Statutory Bail under Section 167(2), Cr.P.C.
42.	***Sushila Aggarwal v State (NCT of Delhi), (2020) 5 SCC 1*** Grant of Anticipatory Bail under S. 438 of Cr.P.C. is ordinarily not limited to a fixed time period and should inure in favour of the accused till the conclusion of the Trial - Normal conditions under S. 437 (3) read with S. 438 (2) should be imposed while granting Anticipatory Bail however, it is open for the Courts to impose any appropriate condition or introduce any peculiar features depending upon the necessity
43.	***Mahipal v. Rajesh Kumar, (2020) 2 SCC 118*** Merely recording "having perused the record" and "on the facts and circumstances of the case" does not subserve the purpose of a reasoned judicial order. It is a fundamental premise of open justice, to which our judicial system is committed, that factors which have weighed in the mind of the Judge in the rejection or the grant of bail are recorded in the order passed. Questions of the grant of bail concern both liberty of individuals undergoing criminal prosecution as well as the interests of the criminal justice system in ensuring that those who commit crimes are not afforded the opportunity to obstruct justice. Judges are duty bound to explain the basis on which they have arrived at a conclusion
44.	***S. Kasi v. State, 2020 SCC OnLine SC 529*** Grant of default bail as per section 167(2) of the Code of Criminal Procedure
45.	***Motamarri Appanna Veerraju v. State of West Bengal,*** (2020) 14 SCC 284 Bail applications to be dealt with expeditiously
46.	***P. Chidambaram v. Directorate of Enforcement, (2019) 9 SCC 24*** Anticipatory Bail - Factors to be considered
47.	***NIA v. Zahoor Ahmad Shah Watali, (2019) 5 SCC 1*** In view of the bar under proviso to Section 43 D(5) of UA(P) Act, bail granted to the accused in terror funding case was set aside.

48.	***M.D. Dhanpal v. State, (2019) 6 SCC 743*** Bail cannot be made conditional upon heavy deposits beyond financial capacity of applicant
49.	***Dataram Singh v State of Uttar Pradesh, (2018) 3 SCC 22*** The grant or refusal of bail is entirely within the discretion of the judge hearing the matter and though that discretion is unfettered, it must be exercised judiciously and in a humane manner and compassionately. Also, conditions for the grant of bail ought not to be so strict as to be incapable of compliance, thereby making the grant of bail illusory
50.	***Kunal Kumar Tiwari v. State of Bihar, (2018) 16 SCC 74*** Anticipatory bail- Nature of conditions that may be imposed while granting anticipatory bail. Onerous and absurd anticipatory bail conditions are alien and cannot be sustained in the eyes of law
51.	***Anil Kumar Yadav v. State (NCT of Delhi), (2018) 12 SCC 129*** While considering the question of grant of bail, court should avoid consideration of details of the evidence as it is not a relevant consideration. While it is necessary to consider the prima facie case, an exhaustive exploration of the merits of the case should be avoided
52.	***Hema Mishra v. State of Uttar Pradesh, (2014) 4 SCC 453*** Section 438(2) of CrPC states that the High Court or Sessions Court are empowered to grant a conditional bail to a person apprehending arrest. The Court dismissed the appeal however, extended application of its interim order granting conditional bail to the appellant to continue till the completion of trial. It stated that the State can always move to the Court to vacate the order if the appellant doesn't cooperate in investigation
53.	***Sumit Mehta v. State (NCT of Delhi), (2013) 15 SCC 570*** While exercising power under Section 438 of the Code, the Court is duty-bound to strike a balance between the individual's right to personal freedom and the right of investigation of the police – Conditions to be imposed with utmost restraint and it must have nexus with the object of granting bail
54.	***Gulabrao Baburao Deokar v. State of Maharashtra and Others, (2013) 16 SCC 190*** High Court has power under Section 439(2) to set aside unjustified, illegal or perverse order granting bail which is an independent ground for cancellation of bail as against the misconduct of the accused himself
55.	***Sanjay Chandra v. CBI, (2012) 1 SCC 40*** The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon. … Seriousness of the charge is, no doubt, one of the relevant considerations while considering bail applications but that is not the only test or the factor: the other factor that also requires to be taken note of is the punishment that could be imposed after trial and conviction, both under the Penal Code and the Prevention of Corruption Act. Otherwise, if the former is the only test, we would not be balancing the constitutional rights but rather "recalibrating the scales of justice"
56.	***Siddharam Satlingappa Mhetre v. State of Maharashtra, (2011) 1 SCC 694*** In the absence of any time constraint within Section 438, the life of an order granting anticipatory bail ought not to be curtailed
57.	***Ram Govind Upadhyay v. Sudarshan Singh and Others, (2002) 3 SCC 598*** Need to indicate in the order, reasons for prima facie considering why bail is being granted and to take note of events subsequent after application for bail once being refused
58.	***Shaheen Welfare Association v. Union of India, (1996) 2 SCC 616***

	Gross delay in disposal of cases would justify the invocation of Article 21 and the consequential necessity to release the under trial on bail
59.	***Sanjay Dutt v. State, (1994) 5 SCC 402*** The Supreme Court held that right of default bail is available to the person only if the accused files an application before filing of the chargesheet. In case the chargesheet has been filed beyond the limitation provided under Section 167 Cr.PC., application for bail would be considered on merits
60.	***Shri Gurbaksh Singh Sibbia v. State of Punjab, (1980) 2 SCC 565*** Section 438(1) should be interpreted in the light of Article 21 - Grant of anticipatory Bail as a matter of right should not be limited by time - Court could impose appropriate restrictions on a case-by-case basis - the term "reason to believe" means the apprehension must be founded upon reasonable grounds and not just a mere 'belief' or 'fear'
61.	***Gudikanti Narsimhulu v. Public Prosecutor, (1978) 1 SCC 240*** The provision of bail preserves and maintains the ideal of liberty and freedom inherent in Article 21 and has a clear link to it - Questions like "bail or jail?" and "at the pre-trial stage or post-conviction stage?" belonged to the blurred area of the criminal justice system and largely hinges on the hunch of the bench, otherwise called judicial discretion – Principles for granting or refusing bail considered
62.	***Moti Ram v. State of Madhya Pradesh, (1978) 4 SCC 47*** Bail covers both release on one's own bond, with or without sureties and when sureties should be demanded and what sum should be insisted on are dependent on variables

SERIAL NO.	SESSION 3 SENTENCING PROCEDURE: ISSUES AND CHALLENGES	PAGE NO.
1.	Prof. A Lakshminath, SENTENCING JURISPRUDENCE AN INDIAN PERSPECTIVE, Thomson Reuters, Legal (1st Edition, 2018) (excerpts) • ***Punishment – Philosophical Justification,*** pp. 10-28 …… • ***Sentencing Principles,*** pp. 29-65 …… • ***Sentencing Court Practices,*** pp. 66-102 ……	
2.	Andrew Ashworth, SENTENCING AND CRIMINAL JUSTICE, Cambridge University Press (2009) (excerpts) • ***Sentencing aims Principles and Policies,*** pp. 66-101 …….. • ***Elements of Proportionality,*** pp. 102-150 …… • ***Aggravation and Mitigation,*** pp. 151-181 ……	
3.	Melissa Hamilton, ***Sentencing Disparities***, 6(2) British Journal of American Legal Studies 177-224 (Fall 2017)	
4.	Anup Surendranath, Neetika Vishwanath & Preeti Pratishruti Dash, ***The Enduring Gaps and Errors in Capital Sentencing in India***, 32 National Law School of India Review 46 (2020)	
5.	Leon Radzinowicz and Roger Hood, ***Judicial Discretion and Sentencing Standards: Victorian Attempts to Solve a Perennial Problem***, 127(5) University of Pennsylvania Law Review 1288-1349 (May, 1979)	

6.	Anthony Gray, ***Mandatory Sentencing Around the World and the Need for Reform,*** 20(3) New Criminal Law Review: An International and Interdisciplinary Journal 391-432 (Summer, 2017)	
7.	Ben Grunwald, ***Questioning Blackmun's Thesis: Does Uniformity in Sentencing Entail Unfairness?*** 49(2) Law & Society Review 499-532 (June, 2015)	
8.	G. Kameswari and V. Nageswara Rao, ***The Sentencing Process — Problems and Perspectives,*** 41(3/4) Journal of the Indian Law Institute 452-459 (July-December 1999)	

CASE LAW

(Judgments mentioned below includes citation and short note for reference and discussion purpose during the course of the programme. Please refer the full judgment for conclusive opinion)

1.	***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.
2.	***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.
3.	***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.
4.	***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.
5.	***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.

6.	***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.
7.	***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.
8.	***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.
9.	***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.
10.	***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.
11.	***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."
12.	***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.
13.	***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 reformative, 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.
14.	***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
15.	***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.

16.	***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.
17.	***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.
18.	***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).
19.	***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."
20.	***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.
21.	***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.
22.	***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
23.	***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.
24.	***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.
25.	***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
26.	***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.
27.	***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
28.	***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.
29.	***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.
30.	***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.
31.	***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.
32.	***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.
33.	***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.

34.	***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.
35.	***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.
36.	***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.
37.	***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.
38.	***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.
39.	***Union of India v. Devendra Nath Rai, (2006) 2 SCC 243***

	Undue sympathy to impose inadequate sentince 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.
40.	***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
41.	***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.
42.	***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.
43.	***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.
44.	***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.
45.	***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'.
46.	***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.
47.	***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.
48.	***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.
49.	***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."
50.	***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.
51.	***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.
52.	***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."
53.	***Dhananjoy 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.
54.	***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. This position was illuminatingly stated by this Court in
55.	***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.
56.	***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.
57.	***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.
58.	***Earabhadrappa 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.
59.	***Deen Dayal v. Unioan 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.
60.	***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.
61.	***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."
62.	***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.
63.	***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." Principles laid down in the case: • The extreme penalty of death need not be inflicted except in gravest cases of extreme culpability; • Before opting for the death penalty the circumstances of the 'offender' also require to be taken into consideration along with the circumstances of the 'crime'. • Life imprisonment is the rule and death sentence is an exception. In other words death sentence must be imposed only when life imprisonment appears to be an altogether inadequate punishment having regard to the relevant circumstances of the crime, and provided, and only provided the option to impose sentence of imprisonment for life cannot be conscientiously exercised having regard to the nature and circumstances of the crime and all the relevant circumstances. • A balance sheet of aggravating and mitigating circumstances has to be drawn up and in doing so the mitigating circumstances has to be accorded full weightage and a just balance has to be struck between the aggravating and the mitigating circumstances before the option is exercised.
64.	***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".
65.	***Mohd. Giasuddin v. State of A.P., 1977 3 SCC 287*** There is a great discretion vested in the Judge, especially when pluralistic factors, enter his calculations even so, the judge must exercise this discretionary power, drawing his inspiration from the humanitarian spirit of the law, and living down the traditional precedents which have winked at the personality of the crime doer and been swept away by the features of the crime. What is dated has to be discarded. What is current has to, be incorporated. Therefore innovation, in all conscience, is in the field of judicial discretion. Unfortunately, the Indian Penal Code still lingers in the somewhat compartmentalized system of punishment viz. imprisonment simple or rigorous, fine and, of course, capital sentence. There is a wide range of choice and flexible treatment which must be available with the judge if he is to fulfil his tryst with cruing the criminal in a hospital setting. Maybe in an appropriate case actual hospital treatment may have to be prescribed as part of the sentence. In another case, liberal parole may have to be suggested and, yet in a third category, engaging in certain types of occupation or even going through meditational drills or other courses may be part of the sentencing prescription. The perspective having changed, the legal strategies and judicial resources, in their variety, also have to change. Rule of thumb sentences of rigorous imprisonment or other are too insensitive to the highly delicate and subtle operation expected of a sentencing judge. Release on probation, conditional sentences, visits to healing centres, are all on the cards. Sentencing justice is a facet of social justice, even as redemption of a crime-doer is an aspect of restoration of a whole personality. Till the new code recognized statutorily that punishment required considerations beyond the nature of the crime and circumstances surrounding the crime and provided a second stage for bringing in such additional materials, the Indian courts had, by and large, assigned an obsolescent backseat to the sophisticated judgment on sentencing. Now this judicial skill has to come of age.
66.	***Santa Singh v. State of Punjab, (1976) 4 SCC 190*** The court had held that a separate stage should be provided after conviction when the court can hear the accused in regard to the factors bearing on sentence and then pass proper sentence on the accused—the nature of the offence, the circumstances of the offence (extenuating or aggravating), the prior criminal record of the offender, the age of the offender, the record of the offender as to employment, the background of the offender with reference to education, home life, sobriety and social adjustment, the emotional and mental condition of the offender, the prospects for the rehabilitation of the offender, the possibility of return of the offender to a normal life in the community, the possibility of treatment or training of the offender, the possibility that the sentence may serve as a deterrent to crime by the offender or by others and the current community need, if any, for such a deterrent in respect to the particular type of offence. In the aforesaid case, The Court had also noted, "of course, care would have to be taken by the court to see that this hearing on the question of sentence is not abused and turned into an instrument for unduly protracting the proceedings. The claim of due and proper hearing 8 would have to be harmonized with the requirement of expeditious disposal of proceedings."
67.	***Ramashraya Chakravarti v. State of Madhya Pradesh, AIR 1976 SC 392*** To adjust the duration of imprisonment to the gravity of a particular offence is not always an easy task. It is always a matter of judicial discretion subject to any mandatory minimum prescribed by law. In judging the adequacy of a sentence, the nature of the offence, the circumstances of its commission, the age and character of the offender, injury to individuals or to Society, effect of the punishment on the offender, eye to

	correction or reformation of the offender, are some amongst many other factors which would be ordinarily taken into consideration by courts.
68.	***Ediga Anamma v. State of A.P., 1974 4 SCC 443*** The punitive dilemma begins when the guilt is established. Modern penology regards crime and criminal as equally material when the right sentence has to be picked out, although in our processual system there is neither comprehensive provision nor adequate machinery for collection and presentation of the social and personal data of the culprit to the extent required in the verdict on sentence. In any scientific system which turns the focus, at the sentencing stage, not only on the crime but also the criminal, and seeks to personalise the punishment so that the reformatory component is as ,much operative as the deterrent element, it is essential that facts of a social and personal nature, sometimes altogether irrelevant if not injurious at the stage of fixing the guilt, may have to be brought to the notice of the Court when the actual sentence is determined
69.	***B.G. Goswami v. Delhi Administration (1974) 3 SCC 85*** In absence of guidelines, it is necessary to weigh and balance various considerations with a judicial mind. Broadly, the main purpose of the sentence is that the accused should realise that he has not only committed a harmful act to the society of which he is also an integral part but the act is also harmful to his own future, both as a member of the society and as an individual.
70.	***Jagmohan Singh v. State of U.P (1973) 1 SCC 20*** It was held that a balanced approach of considering the aggravating and mitigating factors should be considered while deciding on the question of capital punishment.
71.	***D.R. Bhagare v. State of Maharashtra, AIR 1973 SC 476*** The Court held that the question of sentencing is a matter of judicial discretion. The relevant considerations in determining the sentence, broadly stated, include the motive for and the magnitude of the offence and the manner of its commission.
72.	***Gopal Vinayak Godse v. State of Maharashtra, AIR 1961 SC 600*** The Court held that sentence of imprisonment for life is one of "imprisonment for the whole of the remaining period of the convicted person's natural life"

Additional References:

1. ***Purnesh Modi v. Rahul Gandhi***, Court convicted Congress leader and MP Rahul Gandhi in a defamation case for his remarks made during a political campaign in Karol in April 2019.
2. ***Radheshyam Bhagwandas Shah @ Lala v. State of Gujarat, Writ Petition(CRL.) No(S). 135 OF 2022,*** The appropriate Government can be either the Central or the State Government but there cannot be a concurrent jurisdiction of two State Governments under Section 432(7) CrPC. 14. In the instant case, once the crime was committed in the State of Gujarat, after the trial been concluded and judgment of conviction came to be passed, all further proceedings have to be considered including remission or pre-mature release, as the case may be, in terms of the policy which is applicable in the State of Gujarat where the crime was committed and not the State where the trial stands transferred and concluded for exceptional reasons under the orders of this Court.
3. ***Bilkis Yakub Rasool v. Union of India & Others, Writ Petition (Crl.) No(S).135 of 2022***, In the order dismissing the review petition, the bench observed that "there appears no error apparent on the face of the record, which may call for review of the judgment dated 13th May 2022". The bench further opined that the precedents cited in the review petition are of no assistance to the petitioner.

SESSION 4 **COMPOUNDING OF OFFENCES**		
1.	P.R. Thakur, ***Compounding A Non-Compoundable Offence : Judicial Pragmatism : Neither Activism Nor Absolutism***, 39 Journal of Indian Law Institute 437-454 (April-December, 1997)	
2.	Chirayu Jain, ***Compoundability of Offences: Tracing the Shift in the Priorities of Criminal Justice***, 7 Journal of Indian Law and Society 20-37 (2016).	
3.	Ashutosh Kumar Misra, ***Withdrawal From Prosecution (Section 321 Of The Cr.P.C.)***	
CASE LAW *(Judgments mentioned below includes citation and short note for reference and discussion purpose during the course of the programme. Please refer the full judgment for conclusive opinion)*		
1.	***In Re: Policy Strategy for Grant of Bail, 2022 SCC OnLine SC 1487*** Guidelines issued with respect to disposal of criminal cases by resorting to the triple method of plea bargaining, compounding of offences and under the Probation of Offenders Act, 1958.	
2.	***Guhan v. State Represented by Inspector of Police, (2022) 10 SCC 542*** The Supreme Court while invoking powers under Article 142 compounded a case involving the offence of attempt to murder under Section 307 of the Indian Penal Code taking note of the fact that the accused and the victim's sister got married subsequently.	
3.	***Maheshsinh Babusinh Zala v. State of Gujarat, R/Criminal Misc. Application No. 1046 of 2022 (Judgment Dated 31.01.2022 Gujarat High Court)*** When parties have settled the dispute amicably, the compounding of the offence is permitted with regard to an offence under Section 138 of the Negotiable Instruments Act, 1881. The Court took note of Section 147 of the Act which provides that notwithstanding anything contained in CrPC, every offence punishable under this Act shall be compoundable.	
4.	***Shri Kantu Ram v. Shri Beer Singh, Cr. Revision No. 334 of 2022 (Judgment Dated 22.08.2022 Himachal Pradesh High Court)*** A Court, while exercising powers under Section 147 of the Negotiable Instruments Act, can proceed to compound the offences even after recording of conviction by the courts below.	
5.	***Janakbhai @ Alpeshbhai Mafatbhai Rabari v. State Of Gujarat, R/Criminal Appeal No. 1690 of 2017 (Judgment dated 17.03.2022 Gujarat High Court)*** The Gujarat High Court permitted compounding of offence under Section 323 of IPC, notwithstanding that the accused was also originally charged under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. It was noted that the Court below had acquitted the Petitioners-accused for alleged commission of offences under Sections 504, 506(2), 427 read with 114 of the IPC and Sections 3(1)(x) of the SC/ST Act and no appeal against such acquittal was preferred by the complainant/ State.	
6.	***State of Kerala v. K. Ajith, 2021 SCC OnLine SC 510*** The Supreme Court observed that while deciding a plea to withdraw prosecution, the court must be satisfied that the grant of consent sub-serves the administration of justice; and that the permission has not been sought with an ulterior purpose. The court can also scrutinize the nature and gravity of the offence and its impact upon public	

	life especially where matters involving public funds and the discharge of a public trust are implicated, the bench added. The following principles were formulated: 1. Section 321 entrusts the decision to withdraw from a prosecution to the public prosecutor but the consent of the court is required for a withdrawal of the prosecution; 2. The public prosecutor may withdraw from a prosecution not merely on the ground of paucity of evidence but also to further the broad ends of public justice; 3. The public prosecutor must formulate an independent opinion before seeking the consent of the court to withdraw from the prosecution; 4. While the mere fact that the initiative has come from the government will not vitiate an application for withdrawal, the court must make an effort to elicit the reasons for withdrawal so as to ensure that the public prosecutor was satisfied that the withdrawal of the prosecution is necessary for good and relevant reasons; 5. In deciding whether to grant its consent to a withdrawal, the court exercises a judicial function but it has been described to be supervisory in nature. Before deciding whether to grant its consent the court must be satisfied that: (a) The function of the public prosecutor has not been improperly exercised or that it is not an attempt to interfere with the normal course of justice for illegitimate reasons or purposes; (b) The application has been made in good faith, in the interest of public policy and justice, and not to thwart or stifle the process of law; (c) The application does not suffer from such improprieties or illegalities as would cause manifest injustice if consent were to be given; (d) The grant of consent sub-serves the administration of justice; and (e) The permission has not been sought with an ulterior purpose unconnected with the vindication of the law which the public prosecutor is duty bound to maintain; 6. While determining whether the withdrawal of the prosecution subserves the administration of justice, the court would be justified in scrutinizing the nature and gravity of the offence and its impact upon public life especially where matters involving public funds and the discharge of a public trust are implicated; and *7.* In a situation where both the trial judge and the revisional court have concurred in granting or refusing consent, this Court while exercising its jurisdiction under Article 136 of the Constitution would exercise caution before disturbing concurrent findings. The Court may in exercise of the well-settled principles attached to the exercise of this jurisdiction, interfere in a case where there has been a failure of the trial judge or of the High Court to apply the correct principles in deciding whether to grant or withhold consent.
7.	***Ashwini Kumar Upadhyay v. Union of India, 2021 SCC OnLine SC 629*** The Supreme Court put down specific standards for withdrawing from prosecution for current or former MLAs, MPs, and Ministers. According to the guidelines, no prosecution against sitting or former MPs and MLAs will be withdrawn without the permission of the High Court of the concerned state.
8.	***Prakash Gupta v. Securities and Exchange Board of India, 2021 SCC OnLine SC 485*** In respect of offences which lie outside the Indian Penal Code, compounding may be permitted only if the statute which creates the offence contains an express provision for compounding before such an offence can be made compoundable. This is because Section 320 CrPC provides for the compounding of offences only under the IPC. The first of these principles is crucial so as to allow for amicable resolution of disputes between parties without the adversarial role of Courts, and also to ease the burden of cases coming before the Courts. However, the second principle is equally important because even an offence committed against a private party may affect the fabric of society at large. Non-prosecution of such an offence may affect the limits of conduct which is acceptable in the society. The Courts play an important role in setting these limits through their adjudication and by prescribing punishment in proportion to how far away from these limits was the offence which was committed. As such, in deciding on whether to compound an offence, a Court does not just have to understand its effect on the parties

	before it but also consider the effect it will have on the public. Hence, societal interest in the prosecution of crime which has a wider social dimension must be borne in mind.
9.	***Mahalovya Gauba v. The State of Punjab and Another, CRM-M-42269-2020 (Judgment Dated 08.02.2021 Punjab & Haryana High Court)*** The Court held that criminal proceedings containing compoundable offences are classified into two parts: (i) Settlement of criminal crimes without the court's consent under Section 320(1) of the CrPC, and (ii) Settlement of criminal proceedings with the court's approval under Section 320(2) of the CrPC: The Lok Adalat will have the authority to hear compoundable criminal proceedings of both subgroups, compoundable without the court's consent under Section 320(1) of the CrPC and compoundable with the court's consent under Section 320(2) of the CrPC. Compounding before filing of Chargesheet under Section 173(2) of the CR.PC at the stage of investigation.
10	***Khokhar Iliyas Bismilla Khan v. State of Gujarat, R/Criminal Appeal No. 18712 of 2020 (Judgment Dated 09.03.2021 Gujarat High Court)*** The object of Section 138 of the NI Act, which is mainly to inculcate faith in the efficacy of banking operations and credibility of transacting business through cheque as also taking into account the provisions of Section 147 which states that every offence punishable under this Act shall be compoundable.
11	***Jairaj v. State of Maharashtra, Criminal Appeal No.(s).1500/2015 (Supreme Court of India, Order dated 17.07.2020)*** SC quashed matrimonial cruelty charges against husband based on compromise. The Court, while setting aside the impugned judgment dismissing the petition filed by the appellants seeking quashing of the FIR for in view of the High Court the offences under Sections 498A and 406 IPC are non compoundable and the inherent powers under Section 482 of the Code cannot be invoked to bypass the mandatory provision of Section 320 of the Code, said that non-exercise of inherent exercise of power to quash the proceedings to meet the ends of justice would prevent women from settling the disputes.
12	***Bhagyan Das v. The State of Uttarakhand & Another, (2019) 4 SCC 354*** A court has discretion to reject a plea to compound an offence having social impact, even if the offence is compoundable under Section 320 of the Code of Criminal Procedure. Merely because an offence is compoundable under Section 320 CrPC, still discretion can be exercised by the court having regard to nature of offence, as such it is rightly held in the impugned judgment that as the offence for which appellant was convicted and sentenced, it will have its own effect on the society at large. In view of the reasons recorded in the impugned order rejecting the application for compounding, it cannot be said that the High Court has committed any error in not accepting the application filed for compounding the offence.
13	***State of Madhya Pradesh v. Dhruv Gurjar and Another, (2019) 5 SCC 570*** Relevance of compromise when offence in question is more in nature of crime against society than a personal wrong.
14	***Shankar Yadav v. State of Chhattisgarh, (2018) 13 SCC 452*** Where ingredients of compounding of offences are made out the appellant accused is entitled to the benefit of compounding.
15	***State of Rajasthan v. Shambhu Kewat, (2014) 4 SCC 149*** Compounding of non-compoundable offence on the basis of compromise based on monetary compensation paid to the victim(s) impermissible owing to a larger objective of the criminal justice system – Reduction of substantive sentence due to compromise only if warranted.

16	***Bairam Muralidhar v. State of Andhra Pradesh, (2014) 10 SCC 380*** The application for withdrawal of prosecution must indicate perusal of the materials by stating what are the materials he has perused, may be in brief, and whether such withdrawal of the prosecution would serve public interest and how he has formed his independent opinion. As we perceive, the learned Public Prosecutor has been totally guided by the order of the Government and really not applied his mind to the facts of the case.
17	***Ranjana Agnihotri v. Union of India, 2013 SCC OnLine All 12040*** A full seat of Allahabad High Court considered four inquiries identifying with the translation of Section 321 of Cr. P. C., alluded to it. Incompatibility of directions given by the State Government, the Public Prosecutors, accountable for those cases, moved applications for withdrawal from the prosecution of the charged in the said cases. The full seat responded to the four inquiries encircled by the Referral Court (Division Bench) as under: 1. The Government can give a request or guidance for withdrawal from prosecution without there being demand from the Public Prosecutor accountable for the case, subject to the rider that the Public Prosecutor will apply his/her autonomous personality and record fulfilment before moving an application for withdrawal from prosecution. 2. The prosecution can't be pulled back without allotting reason, might be definitely. In the event that an application is moved for withdrawal from prosecution for a situation identifying with fear-based oppression and pursuing of war against the nation, exceptional and explicit explanation must be allocated keeping in see the dialogue, made in the collection of the judgment. 3. Prosecution under Central Act was concerning the offences, the official intensity of the Union expands, the prosecution can't be pulled back without authorization of the Central Government. For offences under Unlawful Activities (Prevention) Act, 1967, Explosive Substances Act, 1908 and Arms Act, 1959 and so forth and the offences falling in Chapter VI of Indian Penal Code or the same offences the official intensity of the Union of India broadens, consequently authorization from the Central Government as to withdrawal of indictment under Section 321 Cr. P. C. will be vital. ***4.*** State Government has got capacity to give guidance or pass request considerably after authorization for prosecution has been given in a pending criminal case, subject to the condition that the Prosecuting Officer needs to take free choice with due fulfilment as per law all alone, before moving the application for withdrawal from prosecution in the preliminary court.
18	***Damodar S. Prabhu v. Sayed Babalal H., (2010) 5 SCC 663*** Compounding of offences under the Negotiable Instruments Act, 1881 is controlled by Section 147 and the scheme contemplated under Section 320 CrPC will not be applicable in strict sense. Guidelines/Discretion issued: (i) to encourage litigants in cheque dishonor cases to opt for compounding during early stages of litigation to ease choking of criminal justice system (ii) for graded scheme of imposing costs on parties who unduly delay compounding of offence and (iii) for controlling of filing of complaints in multiple jurisdictions relatable to same transaction.
19	***Vinjay Devanna Nayak v. Ryot Sewa Sahkari Bank Ltd., (2008) 2 SCC 305*** The compounding of an offence signifies that the person against whom an offence has been committed has received some gratification to an act as an inducement for his abstaining from proceeding further with the case.
20	***Nikhil Merchant v. CBI, (2008) 9 SCC 677*** The charges against the accused consisted of both compoundable and non- compoundable offences. However, before the charge sheet was filed, the parties had arrived at a settlement and wanted to quash the criminal proceedings against the defendant. High court did not quash the proceedings but when the matter went to the

	Supreme court, the criminal proceedings were quashed. The Supreme court laid down that just because of the technicality provided under section 320 with regards to when a party can file for quashing of proceedings and when a party can arrive at a compromise, the interests of justice cannot be ignored. When the parties have already arrived at an arrangement, the veracity of which has been duly checked by the court, there is no point in going on with the criminal proceedings.
21	***S.K. Shukla v. State of U.P., (2006) 1 SCC 314*** The public prosecutor "cannot work as a post box or act on the orders of the state government." As officers of the court, the Public Prosecutors should operate objectively, according to the Court.
22	***Abdul Karim and others v. State of Karnataka, (2000) 8 SCC 710*** That an application under Section 321 Cr.P.C. could not be allowed only on the ground that the State Government had taken a decision for withdrawing the prosecution and such an order could only be passed after examining the facts and circumstances of the case.....What the Court has to see is whether the application is made in good faith, in the interest of public policy and justice and not to thwart or stifle the process of law. The Court, after considering the facts of the case, has to see whether the application suffers from such improprieties or illegalities as would cause manifest injustice, if consent was given.
23	***State of U.P. v. III Additional District & Sessions Judge, 1997 Cri LJ 3021 (All)*** The Public prosecutor in charge sought to withdraw giving reason that the accused was forced into such crimes due to the various atrocities committed upon her by the higher caste people. The court reasoned that there is no service to the public interest in withdrawing from prosecution in particular case and rather such withdrawal might lead to caste based wars wherein every person would think himself or herself to take revenge of any atrocities committed by another without taking recourse to lawful authorities creating chaos and utter savageness.
24	***Surendra Nath Mohanty v. The State of Orissa, (1999) 5 SCC 238*** A full mechanism is available under Section 320 of the CrPC, 1973 for the compounding of the charges mentioned under the IPC. Section 320(1) states that the crimes listed in the table given in Section 320 can be settled by the people listed in the third column of the list. Furthermore, Section 320(2) states that the crimes specified in the list may be settled by the complainant with the court's consent. In contrast, Section 320(9) expressly states that no action shall be settled unless as permitted by Section 320 of the CrPC. According to the aforementioned statutory mandate, only the acts listed in tables 1 and 2 as specified above can be compounded, whereas any other offences punishable under the IPC cannot be settled.
25	***State of Punjab v. Union of India, (1986) 4 SCC 335*** The Supreme Court on appeal, held that the public prosecutor can on opinion of the State government seek withdrawal from prosecution in public interest. In the particular case, the court held that firstly, the court only needs to act as supervisor i.e., check that the office of public prosecutor has not been used for purposes other than to serve the interests of public justice. Secondly, again opening of trial may lead to public unrest amongst the employees.
26	***Sheonandan Paswan v. State of Bihar, (1983) 1 SCC 438*** Section 321 of the code enables the Public Prosecutor to withdraw from the prosecution with the consent of the Court. Before on application made under section 321 Cr.P.C. the Public Prosecutor has to apply his mind to the facts of the case independently without being subject to any outside influence and secondly that the Court, before which the case is pending cannot give its consent to withdraw without itself applying mind to the fact of the case.The Supreme Court held that the court hearing the application for withdrawal from prosecution goes about

	as a chief and in this manner need not go into the proof of the case concerned. The court ought not to be worried about what the outcome would be if all the proof is considered. All the court ought to be worried about is that in considering the material set before it, regardless of whether the public prosecutor applied his free mind and whether the thinking embraced by him experiences inalienable perversity which may prompt foul play.
27	***Subhash Chander v. Chandigarh Administration, (1980) 2 SCC 155*** The Public Prosecutor who alone is entitled to pray for withdrawal, is to act not as a part of executive but as a judicial limb and in praying for withdrawal he is to exercise his independent discretion even if it incurs the displeasure of his master affecting continuance of his office.
28	***Rajender Kumar Jain v. State through Special Police Establishment, (1980) 3 SCC 435*** The Supreme Court has held that it shall be the duty of the Public Prosecutor to inform the grounds for withdrawal to the Court and it shall be the duty of the Court to appraise itself of the reasons which prompt the Public Prosecutor to withdraw from the prosecution. The Court has a responsibility and a stake in the administration of criminal justice and so has the Public Prosecutor, its 'Minister of Justice'. Both have a duty to protect the administration of Criminal justice against possible abuse or misuse by the Executive by resort to the provision of Section 321, Cr.P.C. The independence of the judiciary requires that once the case has travelled to the Court, the Court and its officers alone must have control over the case and decide what is to be done in each case.
29	***Bansi Lal v. Chandan Lal, (1976) 1 SCC 421*** The Supreme Court held that the preliminary court can't precisely offer authorization to pull back from prosecution to the public prosecutor. The court needs to see that the grounds illustrated for withdrawal are entirely the interests of equity and public appeal. The court likewise needs to see whether the workplace of public prosecutor is abused by the official to satisfy the thin appeal spurred by legislative issues. Second, the court while offering consent to withdrawal from indictment goes about like a boss and subsequently, by and large, the court ought not to re-value the grounds on which the open examiner chose to apply for withdrawal. The court, be that as it may, is compelled by a solemn obligation to look at whether the open examiner applied his free personality in choosing the issue. Consequently, it is the courts' significant obligation to investigate each application for withdrawal from arraignment concerning the utilization of free personality by the open prosecutor accountable for the specific case.
30	***Ramesh Chandra J, Thakkar v. A. P. Jhaveri & Anr, AIR 1973 SC 84*** If an acquittal is based on the compounding of an offence and the compounding is invalid under the law, the acquittal would be liable to be set aside by the High Court in the exercise of its revisional powers. If any non-compoundable offence has been compounded against the law and the acquittal of the accused made is based on the same compromise, the High Court has the power to set aside such an order.
31	***M.N. Sankarayarayanan Nair v. P. V. Balakrishnan, (1972) 1 SCC 318*** The Supreme Court attempted to diagram the rule with respect to which the public prosecutor can practice their circumspection. The court saw that the carefulness is guided by the implicit necessity that the withdrawal ought to be in light of a legitimate concern for the organization of equity. Such may incorporate that prosecution can't gather enough proof to continue charges on denounced or accused, or that withdrawal is essential for controlling lawful circumstances, or for the upkeep of open harmony and serenity and so on.
32	***Biswabahan Das v. Gopen Chandra Hazarika & Ors., AIR 1967 SC 895*** Where the offence is of such a nature that it affects the victim in their individual capacity a sufficient redressal for such an offence may be compounding.

33	***State of Bihar v. Ram Naresh Pandey, 1957 SCR 279*** The Supreme Court clarified the extent of discretion of the public prosecutor vis-à-vis the State government in matters relating to withdrawal of prosecution. Before granting consent to withdraw a case, the Court must be satisfied that the Public Prosecutor's executive function is being properly exercised and that it is not an attempt to interfere with the normal course of justice for illegitimate reasons or purposes.
	HIGH COURT'S POWER UNDER SECTION 482 CRPC
34	***B.S. Joshi v. State of Haryana, (2003) 4 SCC 675*** If for the purpose of securing the ends of justice, quashing of FIR becomes necessary, Section 320, Cr.P.C. does not affect or limit the powers under Section 482, Cr.P.C.
35	***Shiji v. Radhika and Another, (2011) 10 SCC 705*** Effect of non compoundability of offence under Section 320, Cr.P.C. on the power under Section 482, Cr.P.C. – Such power can be exercised as per settled principles, in cases where there is no chance of recording conviction and the trial is destined to be an exercise in futility
36	***Gian Singh v. State of Punjab and Another, (2012) 10 SCC 303*** Certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to victim and the offender and victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or F.I.R if it is satisfied that on the face of such settlement, there is hardly any likelihood of offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard and fast category can be prescribed.
37	***K. Srinivas Rao v. D.A. Deepa, (2013) 5 SCC 226*** Though offence punishable under Section 498-A IPC is not compoundable, in appropriate cases if parties are willing and if it appears to the criminal court that there exists elements of settlement, it should direct the parties to explore the possibility of settlement. This is obviously not to dilute the rigour, efficacy and purport of Section 498-A IPC but to locate cases where the matrimonial dispute can be nipped in bud in an equitable manner. For the settlement to come through, the complaint will have to be quashed. In that event, they can approach the High Court and get the complaint quashed. If there is settlement, the parties will be saved from the trials and tribulations of a criminal case and that will reduce the burden on the courts which will be in the larger public interest. Obviously, the High Court will quash the complaint only if after considering all circumstances it finds the settlement to be equitable and genuine. Such a course, in our opinion, will be beneficial to those who genuinely want to accord a quietus to their matrimonial disputes.
38	***Jitendra Raghuvanshi and Others v. Babita Raghuvanshi and Another, (2013) 4 SCC 58*** In cases of offences relating to matrimonial disputes, if the Court is satisfied that the parties have genuinely settled the disputes amicably, then for the purpose of securing ends of justice, criminal proceedings inter-se parties can be quashed by exercising the powers under Article 142 of the Constitution of India or even under Section 482 of Code of Criminal Procedure, 1973.
39	***Narinder Singh v. State of Punjab, (2014) 6 SCC 466***

	Detailed guidelines laid down for High Courts to form a view under what circumstances it should accept the settlement between parties and quash the proceedings and when it should refrain from doing so
40	***Parbatbhai Aahir Alias Parbatbhai Bhimsinhbhai Karmur and Others v. State of Gujarat and Another, (2017) 9 SCC 641*** In a case involving extortion, forgery and conspiracy where all the accused acted as a team, it is not in the interest of the society in prosecuting serious crimes to quash the FIR on the ground that settlement has been arrived at with the complainant
41	***Parameshwar J. & Others v. State of Karnataka &Others, Crl. P. No.5290/2014 (Judgment Dated 02.07.2018 Karnataka High Court)*** Compromise for quashing 498-A accepted as it is a matrimonial conflict.
42	***State of Madhya Pradesh v. Laxmi Narayan and Others, (2019) 5 SCC 688*** While exercising the powers under Section 482, Cr.P.C. the court should scan the entire facts to find out the thrust of the allegations and the crux of the settlement – Effect of compromise in serious cases on society and law on quashment of non-compoundable offences summarized and harmonized
43	***Ramgopal and Another v. State of Madhya Pradesh, 2021 SCC OnLine SC 834*** As opposed to Section 320 Cr.P.C. where the Court is squarely guided by the compromise between the parties in respect of offences 'compoundable' within the statutory framework, the extra-ordinary power enjoined upon a High Court under Section 482 Cr.P.C. or vested in this Court under Article 142 of the Constitution, can be invoked beyond the metes and bounds of Section 320 Cr.P.C.
44	***Daxaben v. State of Gujarat and Others, 2022 SCC OnLine SC 936*** An FIR under Section 306 of the IPC cannot even be quashed solely on the basis of any financial settlement with the informant, surviving spouse, parents, children, guardians, care-givers or anyone else.
45	***Rajinder Kumar v. Pushpa Devi, Criminal Revision No.293 of 2021 (Judgment Dated 15.12.2022 Himachal Pradesh High Court)*** The provisions of Section 147 of Negotiable Instruments Act coupled with inherent power of the High Court under Section 482 Cr.P.C sufficiently empower the High Court to compound the case even in the absence of consent of complainant where complainant is duly compensated.
46	***Rangappa Javoor v. State Of Karnataka, Criminal Appeal No. Of 2023 (Arising out of Special Leave Petition (Crl). No. Of 2023) (@ Diary No. 33313/2019) (Judgment Dated, 30.01.2023 Supreme Court Of India)*** The Supreme Court observed that criminal proceedings inter-se parties in cases of offences relating to matrimonial disputes can be quashed if the Court is satisfied that the parties have genuinely settled the disputes amicably. In this case, the husband was charged under Sections 498A, 427, 504 and 506 of the Indian Penal Code pursuant to an FIR lodged by the wife. The couple entered into a settlement agreement and a decree of divorce by mutual consent was granted to them. The parties also agreed that FIR and the proceedings arising therefrom should be quashed. However, the Karnataka High Court rejected the prayer to quash the criminal proceedings against the husband.
SESSION 5 **VICTIM COMPENSATION: JUDICIAL APPROACH TOWARDS COMPENSATORY JURISPRUDENCE**	
1.	Pawan Bharti & Chumthunglo Z. Ngullie, ***Right to a Dignified Life: Victim Compensation for Acquitted Prisoners,*** 4(5) International Journal of Law Management and Humanities 220-225 (2021).

2.	Sanjeeve Gowda, ***Compensation to Victims of Crime in India - An Overview,*** 3(2) International Journal of Law Management and Humanities 130-143 (2020).	
3.	Avnip Sharma, ***Victim Compensation in India: Need for a Comprehensive Legislation,*** 18 Supremo Amicus 197 (2020).	
4.	Prof. A Lakshminath, ***Victim Compensation – A New Dimension of Compassionate Criminology*** in SENTENCING JURISPRUDENCE: AN INDIAN PERSPECTIVE, Thomson Reuters, Legal (1st Edition, 2018)	
5.	Dipa Dube, ***Victim Compensation Scheme in India: An Analysis*** 13(2) International Journal of Criminal Justice Sciences, 342 (2018).	
6.	S. Latha & R. Thilagaraj, ***Restorative Justice in India,*** 8 Asian Journal of Criminology 309-319 (2013).	

Additional References:

1. *Central Victim Compensation Scheme (2015)*
2. *Report of Committee on Reforms of Criminal Justice System, Government of India, Ministry of Home Affairs (March, 2003)*
3. *154th Report of the Law Commission of India (1996)*
4. *United Nations Declaration of Basic Principles of Justice for Victim of Crime and Abuse of Power (1985)*

CASE LAW

(Judgments mentioned below includes citation and short note for reference and discussion purpose during the course of the programme. Please refer the full judgment for conclusive opinion)

1.	***Union of India v. Union Carbide Corporation, 2023 SCC OnLine SC 264*** The present petition was filed by the Union of India ('UoI') in 2010 as parens patriae of victims on the direction of Union Cabinet to claim enhanced compensation alleging that the quantum of damages payable had vitiated the Court's affirmation under Union Carbide Corporation. v. Union of India, (1989) 3 SCC 38 ('settlement judgment') and Union Carbide Corporation. v. Union of India, (1991) 4 SCC 584 ('review judgment'). It was observed that the Center had claimed for a top up which had no foundation in any known legal principal. Either a settlement was valid, or it was to be set aside in cases where it was vitiated by fraud. No such fraud has been pleaded by the Center and their only contention relates to a number of victims, injuries and costs that were not contemplated at the time when settlement was effective. The method of topping up the settlement amounts under Article 142 of the constitution of India would not be an appropriate course of action or the method to impose greater liability on UCC that it initially agreed to bear. The Court ordered that a sum of Rs 50 crore lying with the Reserve Bank of India be utilized by the Center to satisfy the pending claims, if any, in accordance with the Bhopal Gas leak Disaster Act, 1985 and schemes framed thereunder. With the above observations, Supreme Court Constitution Bench dismissed Centre's plea for enhanced compensation from Union Carbide Corporation.
2.	***Jagjeet Singh v Ashish Mishra, 2022 SCC Online SC 453*** From investigation till culmination of appeal/revision, victim has right to be heard at every step post the occurrence of an offence. The victims' rights are totally independent, incomparable, and are not accessory or auxiliary to those of the State under the Cr.P.C. The presence of 'State' in the proceedings, therefore, does not tantamount to according a hearing to a 'victim' of the crime. Victims certainly cannot be expected to be sitting on the fence and watching the proceedings from afar, especially when they may have legitimate grievances. It is the solemn duty of a court to deliver justice before the memory of an injustice eclipses.

3.	***D Reddeppa v. The State of Karnataka, Criminal Appeal No. 1113/2015 (Judgment Dated 5.9.2022 Karnataka High Court)*** While delivering final judgments after completion of trial, Magistrate and Sessions Judge must pass a reasoned order as to whether there is a need to make a recommendation for payment of compensation for the rehabilitation of the victim of a crime or not, under Section 357A of the Criminal Procedure Code. Unlike Section 357, the recommendation to pay compensation to the victim is not dependent on the verdict of guilty. Even in the event of acquittal or discharge of the accused, there can be a recommendation for compensation under Section 357A of the Code. In terms of the mandate under sub-section (2) of Section 357A of the Code, the Court may recommend the District Legal Services Authority or the State Legal Services Authority for compensation to be paid to the victim
4.	***Maleka Khatun v. State of W.B., 2022 SCC OnLine Cal 1755*** The High Court came down heavily on the State Legal Services Authority (SLSA) for not having enough funds to provide compensation to victims as per the West Bengal Victim Compensation Scheme, 2017 and thus directed the State government to ensure disbursal of adequate funds within 6 weeks. It was further averred that the Code of Criminal Procedure as well as the Notification published by the State in 2017 makes it mandatory on the State Government not only to make a separate budget for victim compensation but also to constitute a fund with the specific nomenclature of "Victim Compensation Fund" for disbursing amount to the victims who need rehabilitation. This state of affairs cannot surely be permitted to continue for an indefinite period of time. Victims who have suffered loss or injury or any kind of physical or mental agony have been brought within the purview of The Code of Criminal Procedure for a stated purpose. The State or the SLSA cannot take the position that it does not have funds to compensate the victims.
5.	***X. v. State of Jharkhand and Ors, (2021) 2 SCC 598*** Compensation and Rehabilitation measures for rape victim and her children.
6.	***Dharmesh v. State of Gujarat, (2021) 7 SCC 198*** In cases of offences against body, compensation to the victim should be a methodology for redemption. Similarly, to prevent unnecessary harassment, compensation has been provided where meaningless criminal proceedings had been started. Such a compensation can hardly be determined at the stage of grant of bail. The court added that it does not mean no monetary condition can be imposed for grant of bail. As there are cases of offences against property or otherwise but that cannot be a compensation to be deposited and disbursed as if that grant has to take place as a condition of the person being enlarged on bail.
7.	***Rekha Murarka v. State of W.B., (2020) 2 SCC 474*** Law clarified with respect to extent of right of victim's counsel to assist the prosecution as per the scheme envisaged by Cr.P.C.
8.	***Karan v. State NCT of Delhi, 2020 SCC OnLine Del 775*** There exists a mandatory duty on the Court to apply its mind to the question of victim compensation under Section 357 of the CrPC in every criminal case. The court is duty-bound to provide reasons, in every criminal case, based upon which it has exercised its discretion in awarding or refusing the compensation. While observing that the quantum of the compensation is to be determined by the courts, based on factors such as the gravity of the offence, severity of mental and physical harm/injury suffered by the victim, damage/losses suffered by the victims and the capacity of the accused to pay, the court laid down the following steps to be followed: Post-conviction of the accused, the trial court shall direct the accused to file particulars of his income and assets through an affidavit accompanied with supporting documents within 10 days. After the conviction of the accused, the State shall file

	an affidavit disclosing the expenses incurred on the prosecution within 30 days. On receiving the accused's affidavit, the trial court shall send the copy of the judgment and the affidavit to the Delhi State Legal Services Authority (DSLSA). The DSLSA shall then conduct a summary inquiry to compute the loss suffered by the victim and the paying capacity of the accused. It shall submit the victim impact report along with its recommendations within 30 days. The DSLSA may request the assistance of the concerned SDM, SHO and/or the prosecution in this exercise. The trial court shall then consider the victim impact report, considering the factors enumerated above, hear the parties involved including the victim(s) and accordingly award compensation to the victim(s) and cost of the prosecution to the State if the accused has the capacity to pay. The court shall direct the accused to deposit the compensation with DSLSA whereupon DSLSA shall disburse the amount to the victims according to their scheme. If the accused does not have the capacity to pay the compensation or the compensation awarded against the accused is not adequate for rehabilitation of the victim, the court shall invoke Section 357-A CrPC to recommend the case to the Delhi State Legal Services Authority for award of compensation from the victim compensation fund under the Delhi, Victims Compensation Scheme, 2018. In matters of appeal or revision where Section 357 has not been complied with, the public prosecutor shall file an application seeking court's direction for enforcing this procedure in accordance with Section 357(4) of the CrPC.
9.	***District Collector v. District Legal Service Authority, 2020 SCC OnLine Ker 8292*** The victims under Section 357A (4) of the CrPC are entitled to claim compensation for incidents that occurred even prior to the coming into force of the said provision. By giving the benefit to victims under Section 357A (4) CrPC, for crimes that occurred prior to 31-12-2009, the statutory provision is not given retrospective effect and instead a prospective benefit is given based on an antecedent fact. Rehabilitation of the victim is the scope, purport and import of Section 357A (4) CrPC, when read along with Section 357A (1) CrPC. While interpreting a provision brought in as a remedial measure, that too, as a means of welfare for the victims of crimes, in which the perpetrators or offenders have not been identified and in which trial has not taken place, the Court must always be wary and vigilant of not defeating the welfare intended by the legislature. In remedial provisions, as well as in welfare legislation, the words of the statute must be construed in such a manner that it provides the most complete remedy which the phraseology permits. The Court must, always, in such circumstances, interpret the words in such a manner, that the relief contemplated by the provision, is secured and not denied to the class intended to be benefited.
10	***XYZ v. State of Chhattisgarh, 2020 SCC OnLine Chh 161*** The Chhattisgarh High Court held in a Writ petition that the Petitioner (the Rape victim) was entitled to compensation (₹7 lakhs along with interest) under Section 357-A of the CrPC read with Section 33(8) of the POCSO Act. It is mandatory duty of Courts to apply its mind to question of compensation in every criminal case, that too by recording reasons. It was observed that despite clear mandate contained in Section 357-A of the Code and mandate of the Supreme Court in this regard, the criminal courts are not even considering the question of compensation to the victims, particularly the rape victims which is not only disturbing but warranting remedial steps to be taken forthwith.
11	***Amir Hamza Shaikh & Ors. v. State of Maharashtra & Anr., (2019) 8 SCC 387*** Victim's right to assist court in a trial before magistrate – Parameters to grant permission to conduct prosecution. It was pointed that though the Magistrate is not bound to grant permission at the mere asking but the victim has a right to assist the Court in a trial before the Magistrate. The Magistrate may consider as to whether the victim is in a position to assist the Court and as to whether such complexities which cannot be handled by the victim.

	On satisfaction of such facts, the Magistrate would be well within its jurisdiction to grant permission to the victim to take over the inquiry of the pendency before the Magistrate.
12	***Amol Vithalrao Kadu v. Satte of Maharashtra, (2019) 13 SCC 595*** If a person in the custody of police is subjected to any torture, inhuman treatment or violence or custodial death takes place then courts can not only take appropriate action against the responsible police officer but can also provide compensation to the dependents of the deceased or the victim of the illegal torture or violence.
13	***Mallikarjun Kodagali (Dead) v. State of Karnataka & Ors., (2019) 2 SCC 752*** Nature, scope and applicability of right available to victim as defined in Section 2 (wa) of Cr.P.C. – Victim Impact Assessment needs to be undertaken so as to determine punishment. The victim's right to participate in the criminal proceedings which includes right to be impleaded, right to know, right to be heard and right to assist the court in the pursuit of truth has been recognised.
14	***Nipun Saxena & Anr. . Union of India, (2019) 2 SCC 703*** The Supreme Court deemed it appropriate for National Legal Services Authority (NALSA) to set up a Committee to prepare Model Rules for Victim Compensation for sexual offences and acid attacks. Thereafter, the Committee finalised the Compensation Scheme for Women Victims/Survivors of Sexual Assault/other Crimes 2018. As per the scheme, a victim of gang rape would get a minimum compensation of Rs 5 lakhs and up to a maximum of Rs 10 lakhs. Similarly, in case of rape and unnatural sexual assault, the victim would get a minimum of Rs 4 lakhs and a maximum of Rs 7 lakhs. The victims of acid attacks, in case of disfigurement of face, would get a minimum compensation of Rs 7 lakhs, while the upper limit would be Rs 8 lakhs. The court then accepted the said scheme to be applicable across India, which remains the law of the land.
15	***Serina Mondal v. State of W.B., 2018 SCC OnLine Cal 4238*** The victim compensation scheme is retrospective in nature, if a crime was committed before the scheme was implemented, the victim still cannot be denied compensation if it deserves the compensation. A victim is granted compensation under Section 357-A because the fundamental right to life is violated, and denial or delay of compensation would "continue such violation and perpetrate gross inhumanity on the victim in question."
16	***State of H.P. v. Sanjay Kumar, (2017) 2 SCC 51*** Survivor centric approach towards rape victims is the need of the hour.
17	***Tekan v. State of M.P., (2016) 4 SCC 461*** A visually challenged girl was raped by the accused on promise of marriage and subsequently abandoned on her Pregnancy, the Supreme Court delving on the issue of compensation opined, "it is clear that no uniform practice is being followed in providing compensation to the rape victim for the offence and her rehabilitation. This practice of giving different amount ranging from Rs. 20000 to Rs. 10 lakhs for the offence of rape under Section 357A needs to be introspected by all States and Union territories." In the instant case, the court ordered the state to pay Rs. 8000 per month as compensation till her life time.
18	***Manohar Singh v. State of Rajasthan, (2015) 3 SCC 449*** Victims should be given proper health care for their physical injuries, mental health care for the trauma, stress etc. caused, community assistance to help them overcome difficulties faced due to the crime and finally compensation for the damages caused by the crime. Rehabilitating a victim is as important as punishing the accused. Victim's plight cannot be ignored even when a crime goes unpunished for lack of adequate evidence. In spite of legislative changes and decisions of this court, this aspect (victims' rehabilitation) at times escapes

	attention. The court has to give attention not only to the nature of crime, prescribed sentences, mitigating and aggravating circumstances to strike just balance in the needs of society and fairness to the accused, but also to keep in mind the need to give justice to the victim of crime. We find that the court of sessions and the high court have not fully focused on the need to compensate the victim which can now be taken to be integral to just sentencing.
19	***Ram Lakhan Singh v. State of UP, (2015) 16 SCC 715*** The Supreme Court while exercising jurisdiction under Article 32 of the Constitution awarded a lump sum compensation of Rs. 10 lakhs for loss of professional career, reputation, great mental agony, heavy financial loss and defamation on account of malicious prosecution and imprisonment.
20	***Suresh v. State of Haryana, (2015) 2 SCC 227*** The Supreme Court issues directions with regard to compensation, interim compensation and rehabilitation of victims of crime. The object of Section 357A Cr.P.C. is to pay compensation to victims where compensation paid under Section 357 is not adequate or where the case ended up in acquittal or discharge or where the victim is required to be rehabilitated. It is the duty of the court to ascertain financial need of victim of crime *immediately* and to direct grant of interim compensation, on its own motion irrespective of application of victim. At the stage of final hearing it is obligatory on the part of the court to advert to the provision and record a finding whether a case for grant of compensation has been made out and, if so, who is entitled to compensation and how much. Gravity of offence and need of victim are some of the guiding factors to be kept in mind, apart from such other factors as may be found relevant in the facts and circumstances of an individual case. The National Judicial Academy to provide requisite training to judicial officers in the country to make Sections 357 and 357A operative and meaningful.
21	***Ram Phal v. State, 2015 SCC OnLine Del 9802*** Right to appeal being a substantive right always acts prospectively thus, all cases in which orders were passed by any criminal court acquitting the accused or convincing him for a lesser offence or imposing inadequate compensation, passed on or after the date on which amendment was made, the victims in those cases would have the qualified right mentioned in the proviso of Section 372 Cr.P.C.
22	***Laxmi v. Union of India, (2014) 4 SCC 427*** The need for uniformity in the manner of awarding compensation under the Victim Compensation Scheme was emphasized. Sec 357 A was inserted in the CrPC regarding recompensating the survivors under which : • The state govt. along with the central government shall frame a scheme for compensation. • The quantum of damages to be given to the survivor under the scheme shall be finalised by the legal services authority of the district or the state on recommendation of the court. • The court can make recommendations if it finds the compensation to be inadequate to meet the expenses or in case the offender is acquitted. • In case the offender remains to be unidentified then also the survivor or his/her reliant can move an application regarding compensation in the district or state legal services authority which shall conduct an enquiry within 2 months of receiving the application and accordingly award compensation to the victim. • Such an authority can award unpaid medical treatment to the victim on issuance of a certificate by the officer in charge of the police station or by the magistrate. Sec 357 B was added to the CrPC again which makes it clear that this compensation scheme under CrPC is apart and in addition to the fine that shall be paid to the victim under Section 326 A and B of the IPC. The Court gave following directions:

	• That the victim shall be pain 3 lakh rupees of minimum compensation. • That the hospitals are not allowed to turn their back for treating a victim citing the reason for non-availability of medical facilities and on denying treating the victim, such a hospital or medical practician shall be made liable under Sec. 357 C of CrPC. • The first aid treatment of the victim should be given the first priority. • That the hospital which treats the survivor initially shall issue a medical certificate to the victim for the purpose of further reference for treatment. • That both state and central govts shall make effort to streamline the private hospitals as well into treating the acid attack victims.
23	***Indian Woman Says Gang-Raped on Orders of Village Court, 2014 SCC OnLine SC 90*** The court observed that as against an amount of Rs. 50000 agreed to be paid by the state to the victim under the Victim Compensation Scheme, the state is required to make a payment of Rs. 5 lakhs in addition to the sanctioned amount. The court expressed concern over security and safety of the victim and emphasized that merely providing interim measures may not be enough, but 'long term rehabilitation' is necessary.
24	***Ankush Shivaji Gaikwad v. The State of Maharashtra, (2013) 6 SCC 770*** While the award or refusal of compensation under Section 357 of Code of Criminal Procedure, in a particular case may be within the court's discretion, there exists a mandatory duty on the court to apply its mind to the question in every criminal case. Application of mind to the question is best disclosed by recording reasons for awarding/refusing compensation. The legislative intent of the provisions relating to victim compensation was to reassure the victim that he is not a forgotten party in the criminal justice system.
25	***Tata Steel Ltd. v. Atma Tube Products Ltd., 2013 SCC OnLine P&H 5834*** The court held that for the purposes of Victim Compensation Scheme, only those dependents who have suffered loss or injury due to the crime and need compensation and rehabilitation are eligible and the "legal heir" do not have anything to do with Section 357A of the Code.
26	***Rattiram v. State of M.P., (2012) 4 SCC 516*** Speedy trial cannot be regarded as an exclusive right of the accused. The delay in conclusion of the trial has direct nexus with the collective cry of the society and agony of a victim. One cannot afford to treat the victim as an alien or total stranger to the criminal trial. Criminal jurisprudence, with the passage of time, has laid emphasis on victimology which fundamentally is a perception of a trial from the view point of the criminal as well as the victim. It is the duty of the court to see that the victims' right is protected.
27	***Nirmal Singh Kahlon v. State of Punjab, AIR 2009 SC 984*** The right to fair investigation and trial applies to the accused as well as the victim and such a right to a victim is provided under Article 21 of the Constitution of India. It laid down that the victims are equally entitled to a fair investigation.
28	***Dilip S. Dahanukar v. Kotak Mahindra Co. Ltd. and Anr., (2007) 6 SCC 528*** While considering the difference between the provisions of Section 357(1)(b) and Section 357(3), Cr.P.C., i.e., the difference between "fine" and "compensation" this Court observed that the distinction between Sub-Sections (1) and (3) of Section 357 is apparent as Sub-Section (1) provides for application of an amount of fine towards the purposes indicated while imposing a sentence of which fine forms a part, whereas Sub-Section (3) is applicable in a situation where the Court imposes a sentence of which fine does not form a part of the sentence. This Court went on to observe that when fine is not imposed, compensation can be directed to be paid for loss or

	injury caused to the complainant by reason of commission of offence and while Sub-Section (1) of Section 357 provides for application of the amount of fine, Sub-Section (3) of Section 357 seeks to achieve the same purpose.
29	***Ashwani Gupta v. Govt. of India, 2005 SCC OnLine Del 20*** The Delhi High Court held that mere punishment of the offender cannot give much solace to the family of the victim. Since the civil action for damages is a long drawn/cumbersome judicial process, the compensation of Section 357 would be a useful and effective remedy.
30	***Sakshi v. Union of India, AIR 2004 SC 3566*** The Supreme Court mandated trials to be in camera particularly when the victim is a child or rape (or both) victim to protect their honour and dignity.
31	***Zahira Habibulla H. Sheikh v. State of Gujarat, (2004) 4 SCC 158*** Application of principles of fair trial involves a delicate judicial balancing of competing interests in a criminal trial, the interests of the accused and the public and to a great extent that of the victim have to be weighed not losing sight of the public interest involved in the prosecution of persons who commit offences.
32	***Mangilal v. State of Madhya Pradesh, AIR 2004 SC 1280*** The court held that the power of the court to award compensation to the victims under Section 357 is not ancillary to other sentences but in addition thereto. Also, observed that the imposition of fine is the basic and essential requirement, while in the latter even the absence thereof empowers the court to direct payment of compensation. This power is available to be exercised by an appellate court.
33	***P. Ramachandra Rao v. State of Karnataka, (2002) 4 SCC 578*** It is necessary to give a dominant role of the victims of crime, as otherwise, the victim will remain discontented and may develop a tendency to take law into his own hands in order to seek revenge and pose a threat to the maintenance of Rule of Law, essential for sustaining a democracy.
34	***Rabindra Nath Ghoshal v. University of Calcutta & Ors., AIR 2002 SC 3560*** The courts have an obligation to satisfy the social aspiration of the citizens and they have to apply the tool and grant compensation as damages in a public law proceeding seeking enforcement of fundamental rights and the same does grant compensation too by penalising the wrongdoer.
35	***Chairman, Railway Board and Others v. Mrs. Chandrima Das, (2000) 2 SCC 465*** The victim who was the national of Bangladesh was raped many times by the railway officers was awarded the compensation of amount of 10 lakhs by the Supreme Court of India. The court held that even though she may be a foreigner she was entitled for the right to life in India under article 21 of Indian Constitution.
36	***Raj Deo Sharma (II) v. State of Bihar, (1999) 7 SCC 604*** Fixing an outer time limit for conclusion of criminal trial will lead to injustice to the society, to the victims or the heirs of the victim, for such delay in trial they are not responsible.
37	***State of Gujarat v. High Court of Gujarat, (1998) 7 SCC 392*** In our effort to look after and protect the human rights of the accused or human rights of the convict we cannot forget the victim or his family in case of his death or who is otherwise incapacitated to earn his livelihood because of the crime committed by an offender.
38	***D.K. Basu v. State of West Bengal, (1997) 1 SCC 416***

	It was stated that the victims or the heirs of the deceased victims are entitled to claim compensation for the tortious act so committed by the functionaries of the state.
39	***M.C. Mehta v. Kamal Nath, (1997) 1 SCC 388*** The Supreme Court awarded compensation to the victims of environment pollution. Some damages have been appropriated under it- (a) Damages for restoration of the environment and ecology; (b) Damages to those victims who may have suffered loss on account of the act of pollution; (c) Exemplary damages are provided to those who are detained from causing environmental pollution.
40	***Paschim Banga Khet Mazdoor Samity v. State of W.B., (1996) 4 SCC 37*** The Constitution envisages the establishment of a welfare State at the federal level as well as at the State level. In a welfare State the primary duty of the Government is to secure the welfare of the people. Providing adequate medical facilities for the people is an essential part of the obligations undertaken by the Government in a welfare State. In the present case there was breach of the said right of Hakim Seikh guaranteed under Article 21 when he was denied treatment at the various government hospitals which were approached even though his condition was very serious at that time and he was in need of immediate medical attention. Since the said denial of the right of Hakim Seikh guaranteed under Article 21 was by officers of the State, in hospitals run by the State, the State cannot avoid its responsibility for such denial of the constitutional right of Hakim Seikh. In respect of deprivation of the constitutional rights guaranteed under Part III of the Constitution the position is well settled that adequate compensation can be awarded by the court for such violation by way of redress in proceedings under Articles 32 and 226 of the Constitution. The court directed compensation of Rs. 2500 to be paid to the petitioner for denial of emergency medical aid by government hospitals
41	***Bodhisattwa Gautam v. Subhra Chakraborty, AIR 1996 SC 922*** The Supreme Court held that if the court trying an offence of rape has jurisdiction to award compensation at the final stage, the Court also has the right to award interim compensation. The court, having satisfied the prima facie culpability of the accused, ordered him to pay a sum of Rs. 1000 every month to the victim as interim compensation along with arrears of compensation from the date of the complaint. The Supreme Court issued a set of guidelines to help indigenous rape victims who cannot afford legal, medical and psychological services, in accordance with the Principles of UN Declaration of Justice for Victims of Crime and Abuse of Power, 1985.
42	***Delhi Working Women's Forum v Union of India, (1995) 1 SCC 14*** The Supreme Court directed to evolve a scheme for the compensation and rehabilitation of rape victims and laid down certain guidelines for assisting the victims of rape. It provided that having regard to the Directive Principles contained under Art 38(1) of the Constitution of India, it is necessary to set up the Criminal Injuries Compensation Board. According to the guidelines, the court shall order to provide compensation to the victims on conviction of the offender and by the Criminal Injuries Compensation Board irrespective of whether the conviction has taken place.
43	***Kewal Pati v. State of U.P., (1995) 3 SCC 600*** Jail authorities have responsibility to ensure life and safety of convict in jail. Therefore, the court directed award of Rs. 1 lakh compensation to the widow and children of the deceased convict while serving sentence in jail.
44	***Baldev singh v. State of Karnataka, (1995) 6 SCC 593*** The apex court ordered the compensation by invoking the provision of section 357(3) and held that ordering the compensation to be paid is more appropriate than giving the punishment to the accused. The court used its judicial

	power under this provision to benefit the victim by ordering the compensation instead of enhancing the punishment.
45	***Balraj v. State of U.P., (1994) 4 SCC 29*** Section 357(3) CrPC provides for ordering of payment by way of compensation to the victim by the accused and it must also be noted that power to award compensation is not ancillary to other sentences but it is in addition thereto. The court directed payment of Rs. 10000 as compensation to the widow of the deceased.
46	***Dr. Jacob George v. State of Kerala, (1994) 3 SCC 430*** The need to address 'cry of victims of crime' is paramount and separate from the issue of punishment of the offender. The victims have right to get justice, to remedy the harm suffered as a result of crime. This right is different from and independent of the right to retribution, responsibility of which has been assumed by the state in a society governed by Rule of Law. But if the state fails in discharging this responsibility, the state must still provide a mechanism to ensure that the victim's right to be compensated for his injury is not ignored or defeated.
47	***General Manager Kerala SRTC v. Susamma Thomas, (1994) 2 SCC 176*** It was observed that that determination of compensation must be just, fair and reasonable. Multiplier method of computation was explained and applied to determine quantum of compensation and it was held to be the proper, logically sound and well established method for determining first compensation.
48	***Nilabati Behara v. State of Orissa, (1993) 2 SCC 746*** The decision provides that the jurisprudential reasoning behind the award of damages in cases of violation of fundamental rights was elucidated in, which can truly be considered. The concept of Victim Jurisprudence has been evolved on the basis of Supreme Court's analyses on the fact that the constitutional rights of a person are invaded and that cannot be taken away merely by the restoration of rights. So while invoking Article 32 of the Constitution the Supreme Court provided two types of monetary reliefs namely compensation and exemplary costs, by introducing compensatory jurisprudence under Article 32.
49	***Supreme Court Legal Aid Committee v. State of Bihar, (1991) 3 SCC 482*** It is the obligation of the police particularly after taking a person in custody to ensure appropriate protection of the person including medical care if the person needs it. In the instant case, the state of Bihar was directed to pay compensation of Rs. 20000 to the legal representatives of the deceased.
50	***Bhaskaran v. Sankaran Vaidhyan Balan, (1999) 7 SCC 510*** While considering the scope and extent of Section 357(3) Cr.P.C. Supreme Court laid down that the Magistrate can award any sum of compensation and cannot restrict itself in awarding compensation under Section 357(3) since there is no limit in sub-section (3). The magistrate needs to fix the quantum of compensation on the grounds of reasonability.
51	***Union Carbide Corporation v. Union of India, (1989) 2 SCC 540*** The Union Carbide Corporation was ordered to indemnify 470 million dollars to the Union of India to settle all claims payable on or before March 31, 1989. The court explained the manner of calculating the value of compensation while taking relevant factors into consideration.
52	***Hari Singh v. Sukhbir Singh (1988) 4 SCC 551*** While awarding compensation, it is an obligation on the court to take into account, the nature of the crime, the injury suffered, the justness of claim for the compensation, the ability of the accused to pay and other relevant

	circumstances in fixing the amount of fine or compensation. The Apex court had expressly directed all the courts to make the exercise of the Sec. 357 and need to compensate the victims, especially in that case when the accused gets release on admonition, probation or when both parties enter into a compromise. The courts should use their powers as liberally as they can, in order to provide the adequate compensation to the victim.
53	***People's Union for Democratic Rights Thru. Its Secy. v. Police Commissioner, Delhi Police Headquarters, (1989) 4 SCC 730*** The court issued directions for payment of compensation to victims of police atrocities and the family of the deceased and the amount of compensation was to be recovered out of the salaries of the guilty police officers after giving them opportunity to show cause.
54	***M.C. Mehta v. Union of India, AIR 1987 SC 965*** The supreme court while dwelling upon the ambit of Article 32 said that the power under the said provision was not limited to just preventive measures in case of infringement of fundamental rights. But it also covered the power to take remedial measures such as giving compensation.
55	***People's Union for Democratic Rights v. State of Bihar, (1987) 1 SCC 265*** The Apex Court enhanced the compensation from Rs. 10000 to Rs. 20000 to the dependents of the deceased and Rs. 5000 to those injured on account of police firing on backward class people.
56	***Bhim Singh v. State of Jammu Kashmir, AIR 1986 SC 494*** In appropriate cases, Supreme Court has jurisdiction to award monetary compensation by way of exemplary costs or otherwise. On facts, the state of Jammu & Kashmir was directed to pay Rs. 50000 to the petitioner MLA for deliberately preventing him from attending session of Legislative Assembly by arresting and illegally detaining him in police custody.
57	***Rudal Sah v. State of Bihar, (1983) 4 SCC 141*** The Supreme Court recognized the petitioner's right to claim compensation for illegal detention and awarded a total sum of Rs. 35000 by way of compensation. The court observed that Art 21 which guarantees the right to life and liberty will be denuded of its significant content if the power of this Court were limited to passing orders of relief from illegal detention. One of the telling ways in which the violation of that right can reasonably be prevented and due compliance with the mandate of Art 21 secured is to mullet its violators in the payment of monetary compensation.
58	***Khatri (IV) v. State of Bihar, (1981) 2 SCC 493*** When the court trying the writ petition proceeds to inquire into the issue whether the petitioners were blinded by the police officials at the time of arrest or whilst in police custody, it does so not for the purpose of adjudicating upon the guilt of any particular officer but for the purpose of deciding whether the fundamental right of the petitioners under Article 21 has been violated and the state is liable to pay compensation to them for such violation.
59	***Maru ram v. Union of India, AIR 1980 S.C. 2147*** While social responsibility of the criminal to restore the loss or heal the injury is a part of the punitive exercise, the length of the prison term is no reparation to the crippled or bereaved but is futility compounded with cruelty and victimology must find fulfillment not through barbarity but by compulsory recoupment by the wrongdoer of the damage inflicted not by giving more pain to the offender but by lessening the loss of the forlorn. While

	considering the problem of penology the Court should not overlook the plight of victimology and the suffering of the people who die, suffer or are maimed at the hands of the criminals.
60	***Hussainara Khatoon & Ors v. Home Secretary, State of Bihar, AIR 1979 SC 1369*** The court recognised victimization due to abuse of state power and felt the need to address and redress such grave violation of basic human rights which directly infringed the fundamental right to live with dignity under Article 21 of the Constitution.
61	***Rattan Singh v. State of Punjab, (1979) 4 SCC 719*** It is a weakness of our jurisprudence that victims of crime and the distress of the dependents of the victim do not attract the attention of the law. Reparation for the victim remains the vanishing point of our criminal law. This is the system weakness, which the legislature must rectify.
62	***Sarwan Singh v. State of Punjab, (1978) 4 SCC 111*** The Supreme Court laid down, in an exhaustive manner, points to be taken into account while imposing fine or compensation. It observed that while awarding compensation, it is necessary for the court to decide whether the case is fit enough to award compensation. If the case is found fit for compensation, then the capacity of the accused to pay the fixed amount has to be determined. The Supreme Court of India had pronounced upon the need by the government to setup a Criminal Injuries Compensation Board for rape victims within 6 months. The Supreme Court had suggested that this board should give compensation whether or not a conviction takes place. It was held that it is necessary, having regard to the Directive Principles contained under Article 38(I) of the Constitution of India to setup Criminal Injuries Compensation Board. Rape victims frequently incur substantial financial loss. Some, for example are too traumatized to continue in employment. Compensation for victims should be awarded by the court on conviction of the offender and by the Criminal Injuries Compensation Board whether or not a conviction takes place. The board will take into account pain suffering and shocks as well as loss of earnings due to pregnancy and the expenses of the child but if it occurred as a result of rape.
63	***Palaniappa Gounder v. State of Tamil Nadu, AIR 1977 SC 1323*** This is the first landmark judgment where compensation to the victim ordered by the Madras High Court was upheld with some modifications by the Supreme Court of India. In this case, the High Court after commuting the sentence of death on the accused to one of life imprisonment, imposed a fine of Rs.20,000 on the appellant and directed that out of the fine, a sum of Rs.15,000 should be paid to the son and daughters of the deceased under Section 357 (1) (c) of the Code of Criminal Procedure, 1973. The Supreme Court while examining the special leave petition of the appellant observed that there can be no doubt that for the offence of murder, courts have the power to impose a sentence of fine under Section 302 of the IPC but the High Court has put the "cart before the horse" in leaving the propriety of fine to depend upon the amount of compensation. The Supreme Court thus reduced the fine amount from Rs.20,000 to 3,000 and directed to pay the amount to the son and daughter of the deceased who had filed the petition in High Court. So, here the Supreme Court has reduced the amount of fine and achieved a proper blending of offender rehabilitation and victim compensation.
64	***State of Gujarat v. Shantilal Mangaldas, AIR 1969 SC 634*** The term "Compensation" in present context means amends for the loss sustained. Compensation is anything given to make things equivalent, a thing given to make amends for loss, recompense, remuneration or pay.