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FROM THE DESK OF CHIEF EDITOR

Judging is divine. Only the fortunate ones get the opportunity to do justice. Judging is not an easy exercise. It is not everyone's cup of tea. It involves learning to 'wear bifocals'. Controlling emotions. Objective consideration. Fair appreciation. Detached adjudication.

Judges are not engines of power. They are engines of justice. Lot of social engineering is required. Judges deal with issues involving 'humans'. They need to be humane and compassionate. Human factors cannot be ignored.

Justice needs to be done. At all levels. A judge must possess neutrality and impartiality. A trial begins. It continues. Throughout, a judge needs to maintain neutrality. This is essential. A judge has to extract the maximum from both the sides. This is possible only by being neutral. If the judge takes a side, he compromises neutrality. When the trial comes to an end, he cannot do without taking a side. In taking the side, he has to exhibit his impartiality. I mean, impartial adjudication. Both elements play a vital role. One, throughout the trial. The second, in deciding the matter. If the judge is not neutral throughout, he fails in extracting the truth. After being neutral throughout, if he fails being impartial in deciding, again he stumbles. He trips justice. It is the blending of the two that makes a trial fair. Ultimately, justice becomes possible.

The mark of a good judge is the ability to balance. A judge needs to be free from emotions. When emotions prevail, logic suffers. A judge lives in a society. A judge interacts with the family members. With friends, in a limited manner. Watches television. Media Trials impact the Judicial minds. Reads newspapers. Not divorced from day-to-day life and live experiences. Personal biases. Prejudices. The list is long. It is not understandable to believe that the judicial minds are not influenced by what they read and see. In playing the balancing role, a judge is to be detached. All judges at all levels are ultimately humans.

Absolute neutrality and complete impartiality, whether possible? Judges have weaknesses. They have also strengths. In absolute terms, nothing is humanely possible. To begin with, judicial minds are virgins. Therefore, when you become a judge, tune and train your mind. It is disciplining the minds. This discipline teaches to balance. Holding the scales blind folded means to tilt the scales towards the side which has the support of requisite evidence on the touch-stone of law. In short, judges must always radiate humane understanding.

William Shakespeare in his play "**Measure for Measure**" says : **Judge not, that ye be not judged.** A judge should never be afraid of being judged. A judge performs a public act. He gives his decision on the issues and disputes brought before him. A judge decides according to his judicious conscience. He is not worried. It weighs heavy on a judge who does not judge according to his conscience. A reference to Justice H.R. Khanna would be apt. He was directly appointed as the Additional District & Sessions Judge from the Bar. In due course of time, he was elevated as judge of the Punjab High Court. Later, on the establishment of the High Court of Delhi, Justice Khanna came to be appointed as one of the initial judges of Delhi High Court. Still further, he was elevated as Chief Justice of the Delhi High Court. Thereafter, he was elevated to the apex court of the country. He was to superannuate on July 2, 1977. He resigned on January 28, 1977 without occupying Court No.1 of the top court. What a meaningful journey from ADJ. Missed to be the CJI. He came to be superseded after the judgement in the infamous Habeas Corpus case (1976). In this case, Justice Khanna delivered the dissenting judgement. Before pronouncing the judgement, Justice Khanna shared with his sister that this dissent would cost him the Chief-Justiceship of India. He knew in advance. Yet he showed his courage of conviction. Nothing could stop him. He proved **Shakespeare** wrong. He judged so that ye be judged. His portrait continues to be in Court No.2. He proved that People's court is higher than Court No.1 of the summit court. He is no more. He would continue to be remembered always. Judicial Fraternity should follow the legacy of Justice Khanna.

Balram K. Gupta

LATEST CASES: CIVIL

“A person aggrieved’ is an expression which has expanded with the larger urgencies and felt necessities of our times.”

V.R. Krishna Iyer, J. in *Maharaj Singh vs. State of U.P.*, (1977) 1 SCC 155

Amrit Paul Singh vs. TATA AIG General Insurance Company Ltd. & Ors.: 2018 SCC OnLine SC 548 : MANU/SC/0582/2018 : Requirement of permit for vehicle – The apex Court upholding the award passed by MACT and High Court whereby liability of owner through insurer was fixed **held** that in the case at hand, it is clearly demonstrable from the materials brought on record that the vehicle at the time of the accident did not have a permit. The appellants had taken the stand that the vehicle was not involved in the accident. That apart, they had not stated whether the vehicle had temporary permit or any other kind of permit. The exceptions that have been carved out under Section 66 of the ‘Act’ are required to be pleaded and proved and use of a vehicle in a public place without a permit is a fundamental statutory infraction. Further, it is observed that the said situations cannot be equated with absence of licence or a fake licence or a licence for different kind of vehicle, or, for that matter, violation of a condition of carrying more number of passengers. In such a situation, the onus cannot be cast on the insurer. Therefore, the tribunal as well as the High Court had directed the insurer was required to pay the compensation amount to the claimants with interest with the stipulation that the insurer shall be entitled to recover the same from the owner and the driver. The said directions are in consonance with the principles stated in Swaran Singh’s case pertaining to pay and recover principle.

Loveleen Kumar etc. vs. State of Haryana & Ors.: 2018 SCC OnLine SC 568: MANU/SC/0580/2018 :Onus to prove enhance compensation upon the claimants – While remanding back the decision of high court enhancing the compensation in land acquisition case the Supreme Court has **held** that the burden is on the claimants to establish that the amounts awarded to them by the Land Acquisition Officer are inadequate and that they are entitled to more compensation. That burden had to be discharged by the claimants and only if the initial burden in that behalf was discharged, the burden shifts upon the State to justify the award. The onus being primarily upon

the claimants, they are expected to lead evidence to revert the same, if they so desire. The court cannot lose sight of the facts and clear position of documents, that obligation to pay fair compensation is on the State in its absolute terms. It is further observed that every case has to be examined on its own facts and the courts are expected to scrutinize the evidence led by the parties in such proceedings. Also, the land is acquired mainly for the purpose of a residential colony, and about 5% commercial area to cater to the needs of such residential colony will also be built. Since the reasons assigned by the High Court while coming to the conclusion were assigned solely on the basis of Ashrafi’s case and the evidence on record adduced by both the parties was not properly considered. Therefore, the matter was remanded back to the high court for reconsideration.

Director, Aryabhatta Research Institute of Observational Science (Aries) & Anr. vs. Devender Joshi & Ors. : 2018 (2) SCT 382 (SC) : Parameters for assessing the order of termination simplicitor during probation – In this case, the respondent was terminated during the period of probation. The termination order was set aside by the high court on the ground that his services were terminated on account misconduct and regular inquiry was required to be conducted. The apex court set aside the order of high court on the grounds that the termination order in dispute was an order of termination simplicitor and vide show cause notice he was informed about his unsatisfactory performance and there was no need for conducting the regular inquiry. After retreating the law laid down in **Ratnesh Kumar Chaudhary vs. Indira Gandhi Institute of Medical Science, Patna, Bihar: 2015 (15) SCC 151**. It has been further observed that the termination of services of a temporary servant or of one on probation, on the basis of adverse entries or on the basis of assessment that his work is not satisfactory will not be punitive as much as the above facts are merely the motive and not the foundation.

Union of India vs. R. Sethuadhavan & Anr.: 2018 (2) SCT 480 (SC) : Re-fixation of

pay/pension after revision of pay scale – The respondent was retired from the post of Train Examiner from the Indian Railways and his pay scale was Rs.1400-2300 and after 5th Pay Commission the pay scale for the post of train examiner which was abolished was fixed Rs.4500-7000. The post of train examiner was re-designated as Junior Engineer Grade II and the pay scale of this post was recommended as Rs. 5000-8000. Thereafter, the clarifications were made by the Govt. of India and benefit of 50% of minimum pay in the revised scale w.e.f. 1.1.1996 was awarded to the pensioners and it was observed by the high court that the respondent is entitled to the pension to be fixed in the pay scale of Junior Engineer Grade II and the apex court reversed the decision of high court after retreating the decision taken in K.S. Krishanaswamy & Ors. vs. Union of India & Anr., (2006) 13 SCC 215, it has been held that the re-designation of the post cannot be the sole basis and the pension is liable to be fixed as per the instructions and clarification.

Shiva Kant Jha vs. Union of India : AIR 2018 SC 1975 (SC):Instructions for reimbursement of medical bills of non-empanelled hospitals – While deciding the issue of medical reimbursement claim which was denied because treatment was in non-empanelled hospital of CGHS, it has been observed that the claimant is entitled for full reimbursement. It is further held that it is settled legal position that Government employee during his life time or after his retirement is entitled to get benefit of medical facilities and no fetters can be placed on his rights. It is acceptable to common sense, that ultimate decision as to how patient should be treated vests only with doctor, who is well versed and expert both on academic qualification and experience gained. Very little scope is left to patient or his relative to decide as to manner in which ailment should be treated. Specialty Hospitals are established for treatment of specified ailments and services of Doctors specialized in discipline are availed by patients only to ensure proper, required and safe treatment. Right to medical claim cannot be denied merely because name of hospital is not included in Government Order. It is further held that law does not require that prior permission has to be taken in such situation where survival of person is prime consideration.

Dr. Bhupinder Singh vs. Paramjit Singh & Ors. : AIR 2018 P&H 93 : Fixation of ad valorem court fee – The plaintiff has filed suit

for separate possession and alternately for joint possession against the strangers. The plaintiff petitioners claiming himself to be the owner of 1/3 share on the basis of inheritance. He had further challenged the sale deed dated 25.10.2012 executed by his co-sharer. The defendant has moved an application for the rejection of plaint for not affixing ad valorem court fee. The trial court directed to pay the court fee. It has been held by the high court that the plaintiff had not alleged that his co-sharer is in possession over the suit property and possession has been given to the third party. Therefore, the trial court has rightly ordered to fix the court fee.

Roop Singh and Another vs. Amarjit Singh & Ors. : AIR 2018 P&H 110 : Essentials for suit for malicious prosecution – It has been held by the high court that for filing suit for compensation for malicious prosecution, it is only required that the criminal law was set in motion against claimant and he has suffered damages due to initiation of criminal law. Further it is held that the claim also survives against the legal heirs of deceased defendants despite the provisions of Section 306 of Indian Succession Act, 1925.

The Ludhiana Improvement Trust, Ludhiana vs. Ujjagar Singh & Ors. : 2018 (2) 190 PLR 321 (P&H) : Role of Executing Court – After setting aside the sale in an execution it has been held that it is proved that the sale of the property in dispute was conducted by way of public auction without any application of mind and without assessing as to how much property would be required to be sold for satisfaction of the decree. Further, prejudice to the petitioner-judgment debtor is established as property having constructed building on it and consist of a godown, a store and a servant quarter which has been sold without knowledge of the executing court. The different buildings constructed over an area of 7000 square yards which was sold for Rs.22.65 lakhs against execution of decree for a sum of Rs.4,27,068/-. It is further held that had the executing court applied its mind before ordering attachment and sale of attached property, sale of a small portion of the property would have satisfied the decree. Public auction is always a desperate sale and do not fetch the normal market price. Public auction is although the only method left with the court to satisfy the decree, however it does not always represent the correct market value.

LATEST CASES: CRIMINAL

“Court monitoring of the inquiry/ investigation conducted by the CBI is itself a very strong check on CBI from misusing or abusing its power of inquiry/investigation.”

R.M. Lodha, J. in *Manohar Lal Sharma vs. Principal Secy.*, (2014) 2 SCC 532

Court on its own Motion vs. Mulakh Raj, ASI & Naresh Kumar : 2018 (2) RCR (Criminal) 819 (SC) : Statutory bar for initiating contempt proceedings when such contempt is punishable as offence under IPC – A reference was received from Additional District & Sessions Judge, Jalandhar for initiation of contempt proceedings against an Inspector / SHO and ASI Investigating Officer in a F.I.R U/S 379-B & 411 IPC. While considering a bail application on behalf of accused the learned Additional District and Sessions Judge came across few blank papers signed by the accused in the investigation file produced before the Court. The Judge impounded the file and issued notice to the accused who, upon appearance, stated that he along with co-accused had been arrested by the police officers, who threatened them to implicate them falsely and got several blank papers signed from them. Subsequently ASI / Investigating officer, made an application before the Judge, admitting his mistake and while apologizing requested to be forgiven. The Judge, prima-facie finding the act of the police officers highly prejudicial to due course of judicial proceedings which tended to interfere with the same and obstructed the administration of justice, made the reference for initiation of proceedings under Contempt of courts Act. The high court observed that, “No doubt the said blank documents had not been used when the same came to the notice of the learned Additional Sessions Judge, but obtaining signatures of accused on blank papers while the investigation is still going on, is an apparent attempt to fabricate false evidence and would prima-facie constitute an offence under [section 192](#) of IPC punishable under [section 195](#) of IPC read with [section 511](#) of IPC.” The High Court further **held** that jurisdiction in contempt not to be invoked-unless there is real prejudice which can be regarded as substantial interference with due course of justice. Further, the present case is an attempt to cause interference & no substantial interference having taken place yet and order of lower court was set aside.

Rukmani Mahato vs. The State of Jharkhand: 2018 (2) RCR (Criminal) 817

(SC): The Apex Court directions to Trial Courts across the country not to “grant regular bail to an accused, if he/she has already obtained an interim anticipatory bail by a superior Court and the matter is still pending before the higher Court”. The Court was hearing a Special Leave Petition filed by an accused challenging an order, wherein the High Court had refused to grant her pre-arrest bail. Subsequent to the order, she was granted pre-arrest bail by the Apex Court. Thereafter, she had surrendered before the Trial Court, and was released on regular bail. Expressing anguish that regular bail had been granted to accused, in disregard of the pendency of the SLP before it, the Apex Court observed that, “we deem it proper to recall our order granting pre-arrest bail to accused & also to cancel the bail granted to the accused” The court sought an explanation from the Trial Court Judge & also directed the accused to surrender before the Trial Court within a fortnight, and clarified, “We also make it clear that once the accused is in custody, it will be open for her to move an application for regular bail which as and when moved will be considered on its own merits by the Court of competent jurisdiction.”...**The court also directed, “that a copy of the order shall be forwarded to the Director of all Judicial Academies in the country, so that the judgment could be brought to the notice of all Judicial Officers exercising criminal jurisdiction in the States.”**

Gurwinder Singh @ Sonu etc. vs. State of Punjab and Anr. : 2018 (2) RCR (Criminal) 980 (SC) : Accused received injuries in same transactions–No rule that prosecution is obliged to explain injuries and on failure of same, prosecution case should be disbelieved–The dispute between complainant party & deceased was regarding land and while settling land dispute there was scuffle between parties. Accused went inside the room and brought axe and attacked deceased causing multiple fractures on head. Deceased died one month after the incident. Accused also received injuries in the same incident and no explanation by prosecution for injuries to accused persons. The trial court convicted the appellants / accused under Section 302 IPC & the High

Court confirmed the conviction and the sentence. In appeal it was contended before the apex court that the accused also sustained injuries for which the prosecution offered no explanation, therefore, the case of prosecution should be disbelieved. The apex court observed that it cannot be held as a rule that the prosecution is obliged to explain the injuries and on failure of the same, the prosecution case should be disbelieved. It has been further observed that before placing the burden on the prosecutions to explain the injuries on the person of the accused, two conditions are to be satisfied: (1) **the injuries were sustained by the accused in the same transaction; and (ii) the injuries sustained by the accused are serious in nature.**”

Arif Khan @ Agha Khan vs. The State of Uttarakhand : 2018 (2) RCR (Criminal) 931 (SC) : Scope of Section 50 NDPS Act discussed – The matter came up in appeal before the apex court against judgment of the High Court whereby the High Court confirmed the judgment passed by the Additional Sessions Judge by which the appellant-accused was convicted for the offence punishable under section 20 of the NDPS Act. The accused was apprehended & and consented to be searched by them. The raiding police party accordingly obtained his consent in writing to be searched which resulted in seizure of “Charas” weighing around 2.5 K.G. The SC reiterating the Constitutional Bench of the court in Baldev Singh & Vijay Singh Chandhuba Jadeja **held** that firstly, it is an admitted fact emerging from the record of the case that the appellant was not produced before any Magistrate or Gazetted Officer; Secondly, it is also an admitted fact that due to the aforementioned first reason, the search and recovery of the contraband “Charas” was not made from the appellant in the presence of any Magistrate or Gazetted Officer; Thirdly, it is also an admitted fact that none of the police officials of the raiding party, who recovered the contraband “Charas” from him, was the Gazetted Officer and nor they could be and, therefore, they were not empowered to make search and recovery from the appellant of the contraband “Charas” as provided under [Section 50](#) of the NDPS Act except in the presence of either a Magistrate or a Gazetted Officer; Fourthly, in order to make the search and recovery of the contraband articles from the body of the suspect, the search and recovery has to be in conformity with the requirements

of [Section 50](#) of the NDPS Act. It is, therefore, mandatory for the prosecution to prove that the search and recovery was made from the appellant in the presence of a Magistrate or a Gazetted Officer and on this score the Impugned judgment was set aside.

Sushila Aggarwal vs. State (NCT of Delhi): 2018 SCC OnLine SC 531: Should an anticipatory bail be for a limited period of time? – Held – The three judge bench asked larger bench to authoritatively settle the following questions in a clear and unambiguous way:

- Whether the protection granted to a person under Section 438 Cr.P.C should be limited to a fixed period so as to enable the person to surrender before the Trial Court and seek regular bail.
- Whether the life of an anticipatory bail should end at the time and stage when the accused is summoned by the court.

The issue as to whether an anticipatory bail should be for a limited period of time was before the bench for consideration and it took note of the fact that there were conflicting views of the different Benches of varying strength on the said issue. While the Constitution Bench verdict in [Gurbaksh Singh Sibbia’s case](#) held that anticipatory bail should not be for a limited period, the three judge bench verdict in [Salaudin Abdulsamad Shaikh’s case](#) without referring to the aforementioned Constitution Bench verdict, **held** that anticipatory bail orders should be of a limited duration only and ordinarily on the expiry of that duration or extended duration the court granting anticipatory bail should leave it to the regular court to deal with the matter on an appreciation of evidence placed before it after the investigation has made progress or the charge-sheet is submitted. Therefore, in the light of the two conflicting schools of thought the matter needs consideration by a larger Bench. Even the Constitution Bench in Sibbia Case does not, in so many words, lay down a proposition that the protection of anticipatory bail is available to an accused till the conclusion of the trial. The Court noticed that in Sibbia’s case, the Court has only briefly dealt with the question of duration of anticipatory bail and has not laid down the law that once an anticipatory bail, it is an anticipatory bail forever.

LATEST CASES: FAMILY LAW

“Adoption is a mode of affiliation which confers a right of inheritance under Hindu Law.”

K.S. Hegde, J. in *Punithavalli Ammal vs. Minor Ramalingam*, (1970) 1 SCC 570

Meenal Bhargava vs. Naveen Sharma: 2018 SCC Online SC 508 : Spouse can't be punished for contempt for failing to live with the other, violating consent order – Held – the Supreme Court observed that, forcing a spouse to join the company of the other and on failing to do so punishing her in committing contempt of the court order that too by awarding maximum civil imprisonment in law, cannot be countenanced. The bench **further held** that even when a decree of conjugal rights is passed by a competent court of law in favour of one of the spouses, such a decree cannot be executed and the other spouse who is directed to resume the conjugal relations, cannot be forced to do so.

“X” vs. Union of India & Ors.: MANU/SCOR/15769/2018 : Writ Petition (Civil) No.327/2018 : DoD 07.05.2018 – SC allows 26 year old woman, married off without her consent, to move to any place as per her choice & desire – Held – The Supreme Court disposed of the habeas corpus writ petition filed on behalf of a Karnataka-based 26 year old woman, allegedly married off without her consent, with the direction that she would be at liberty to move to any place as per her choice and desire, and that there may not be any impediment from any quarters. Observing “...***Needless to say, when she is a major, she is entitled to take up any job and pursue the same as she intends to do...The parents of the petitioner will hand over all the necessary documents (Aadhaar card, passport etc.) relating to the petitioner...The State of Karnataka is directed to provide adequate security to the petitioner so that she can travel to Bangalore. If there will be any threat perception, she can make a representation to the concerned Assistant Commissioner of Police of the area...***”

B.C. SINGH (D) by LRs vs. J.M. Utarid (D) by LRs : 2018 SCC Online SC 502 – No prohibition for succession of the property in India by a foreign national by inheritance – Held – Holding that a Pakistani sister is entitled to inherit a share of the property of an Indian citizen, the Supreme Court has observed that there is no prohibition for the succession of the

property in India by a foreign national by inheritance. Referring to provisions of the Indian Succession Act, the bench observed that when intestate has not left behind any lineal descendant and has only kindred, the nearer kindred exclude the distant kindred. It also **held** that the first defendant being distant kindred is not entitled to succeed any share in the property since the intestate has left behind her real sister. **Further held** – This Act [Indian Succession Act] does not bar the succession of property of any Indian Christian by a person who is not an Indian national.

Jalendra Padhiary vs. Pragati Chhotray: 2018 (6) SCALE 7–Permanent Alimony– Held – The Appellant (husband) filed a divorce petition against the Respondent (wife) seeking decree for dissolution of marriage on the grounds of desertion and cruelty. The Family Judge allowed the petition and passed a decree of divorce by dissolving the marriage. The Family Judge also directed the Appellant to pay permanent alimony to the Respondent, which was challenged. The High Court dismissed the Appellant's appeal upholding the order of the Family Judge. The Supreme Court **held**, while allowing appeal that :

- (i) On perusal of the order of the Family Court and the High Court, both the Courts failed to apply their judicial mind to the factual and legal controversy insofar as award of permanent alimony to the Respondent was concerned. Both the Courts did not even mention the factual narration of the case set up by the parties on the question of award of permanent alimony and without there being any discussion, appreciation, reasoning and categorical findings on the material issues such as, financial earning capacity of husband to pay the alimony and also the financial earning capacity of wife, a direction to pay permanent alimony to the wife was given and such direction was wholly unsustainable in law.
- (ii) It was really unfortunate that neither the Family Court nor the High Court kept in mind these legal principles and passed cryptic and unreasoned orders. Such

orders undoubtedly cause prejudice to the parties and in this case, it caused prejudice to the Appellant because the orders of the High Court and Family Court deprived him to know the reasons for fixing the permanent alimony payable to his wife.

Sanjay Kumar Sinha vs. Asha Kumari & Ors.: 2018 (5) SCALE 410 – Adoption and Maintenance Matter – Held – The dispute is between the husband and wife. The Appellant was the husband of the Respondent. The Appellant had filed the divorce petition against the Respondent which was pending for decision. The Respondent filed an application claiming monthly maintenance for herself and her daughter. The Family Judge granted maintenance to the Respondent. Aggrieved by this an appeal was preferred wherein the High Court dismissed the Appellant's application. Hence, present appeal was filed. The Supreme Court held, while disposing off appeal directed the Appellant should, during pendency of main divorce case, continue to pay in cash a sum of Rs. 8000/- p.m. (Rs. 6000/- to the wife and Rs. 2000/- to the daughter). The Appellant was directed to pay arrears towards monthly maintenance be paid to the Respondent (wife) within one month, at the rate fixed by this Court.

Dinesh Singh Thakur vs. Sonal Thakur : 2018 (6) SCALE 1 – Whether Appellant was entitled to decree of anti-suit injunction against Respondent – Held – Present appeal filed against order whereby injunction order to restrain Respondent from pursuing petition for divorce before Foreign Court was vacated by High Court. Evidence placed on record was sufficient enough to show that Respondent was amenable to personal jurisdiction of Family Court. There was nothing on record to hold that other party would suffer grave injustice if injunction was not granted. There was no dispute to fact that both parties were permanent citizens of foreign country. Contention that Appellant would suffer grave injustice if proceedings were allowed to be continued in Foreign Court did not stand to ground as Appellant himself had been residing there after marriage and proceedings for grant of anti-suit injunction were initiated by him in country through another person by empowering him through power of attorney to file and pursue disputed litigation on his behalf. There was nothing brought on record to show how Appellant would suffer grave injustice if injunction restraining Respondent from pursuing divorce petition in Foreign Court was

not granted. Proceedings in Foreign Court could not be said to be oppressive or vexatious. No infirmity in impugned order.

Satpal vs. Mamta : 2018 SCC Online P&H 255 : Section 12(c) Hindu Marriage Act – In an appeal against the judgment of Additional District Judge, the Punjab and Haryana High court upheld the trial court order annulling the marriage between a girl and a godman on the ground that consent for marriage was obtained by using the fiduciary relationship as a Godman. The girl, after realizing the trap had filed a case seeking to annul the marriage which was allowed by the court. The court had found that the godman played with her emotions and created a psychological pressure on her and, she succumbed to his misconceived scheme and lost power to think rationally and thinking him as the messenger of God and spiritual guru who would never let her down, she acted on his directions. Dismissing the husband's appeal, the high court observed: "It is not unknown that a godman like appellant creates a false impression in the minds of the people by their sermons by reflecting that they have got divine powers and when the families fall into their trap they use the undue influence to exploit them sexually." The court further observed that, "marriage is definitely void as the consent of the girl has been obtained by the 'godman' by using the fiduciary relationship as a godman and trapped the respondent by false representations and poisoning her mind and creating a fear of morality and illegality in maintaining her relationship with her boyfriend."

Preeti Kumar vs. Neelkanth Kumar : 2018 SCC Online P&H 757 : Section 13(1)(ia) Hindu Marriage Act : whether forced sex can be a ground to seek divorce – In the divorce petition, the wife had alleged that her husband forced sex against her wishes and moods. She also said her husband persistently committed sodomy and despite her resistance and she was forced to continue with his unnatural behaviour. The family court refused divorce. The high court, while reversing the findings of the family court, observed that there were allegations of demand of dowry, beating, commission of unnatural sex, creating such circumstances that the wife was compelled to leave his place 8 years ago. It **held** that the wife suffered both physical as well as mental cruelty. The court, observed: "The totality of the circumstances available on the record indicate that the appellant has, on account of unbearable circumstances left.

NOTIFICATIONS

1. Ordinance promulgated to widen jurisdiction of Commercial Courts create Appellate Courts and mandate mediation in certain disputes: Ministry of Law and Justice:

The Government on May 3 published an Ordinance in the Gazette of India which made major changes to the Commercial Court structure in India. These courts were set up below the District Judge level, keeping in mind the increasing number of commercial disputes with a growing economy, and to bring about a speedy resolution of conflict, to showcase India as a lucrative destination for foreign investment. This ordinance sought to amend the Commercial Courts, Commercial Division and the Commercial Appellate Division in High Courts Act of 2015 (the Act).

The amendment made the following important changes to the Act:

1. Addition of the phrase "Commercial Appellate Courts" to the long title of the Act, and prescribing "Commercial Courts Act, 2015" as the short title.
2. In S. 2(i) of the Act, 'specified value' was lowered from amounts exceeding One crore rupees to amounts exceeding Three lakh rupees, substantially increasing the ambit of the courts' jurisdiction.
3. In the High Courts of Bombay, Delhi, Calcutta, Madras and Himachal Pradesh, which exercise ordinary original civil jurisdiction in respect of territories of the cities of Mumbai, Delhi, Kolkata, Chennai and the State of Himachal Pradesh, the State government, in consultation with the

respective High Court, shall constitute Commercial Courts at District Judge Level, and also specify the pecuniary value for these courts, which shall be greater than 3 lakhs but less than the pecuniary value of the jurisdiction of the District Court.

4. Where the High Courts do not exercise ordinary original civil jurisdiction, the State government may, in consultation with the respective High Court, establish Commercial Appellate Courts at the District Judge level, to hear appeals against judgments passed by the Commercial Courts below the District Judge level.

5. By inserting Chapter IIIA to the Act it made mandatory that, in suits not contemplating any urgent interim relief, pre-institution mediation, the manner and procedure of which is to be prescribed by the Central Government. Such a suit shall not be instituted till the remedy of mediation has been exhausted.

2. NACIN notified as the authority for conducting the examination for GST Practitioners: F.No.349/58/2017-GST(Pt.): Ministry of Finance: G.S.R. 503(E) :

In exercise of the powers conferred by Section 48 of the Central Goods and Services Tax Act, 2017 (12 of 2017) read with sub-rule (3) of Rule 83 of the Central Goods and Services Tax Rules, 2017, the Commissioner, on the recommendations of the Council, hereby notifies the National Academy of Customs, Indirect Taxes and Narcotics, Department of Revenue, Ministry of Finance, Government of India, as the authority to conduct the examination as per the said sub-rule.

EVENTS OF THE MONTH

Second Batch of 30 Public Prosecutors (DA & DDA) from the State of Punjab under 14th Finance Commission undergone 10 days training from June 4 to 14, 2018 at Chandigarh Judicial Academy. The training included four sessions of 1.15 hours each per day. Total 39 different sessions dealt with different aspects relevant for Public Prosecutors regarding Criminal and Civil Matters in order to enhance their capacity to perform their duties effectively and efficiently. The Public Prosecutors were sensitized on topics: Relevancy of Constitution in District Judiciary, General Aspect of Service Law, Law on Bails – Regular and Anticipatory, Law on Constructive & Joint Criminal Liability, Examination of witnesses–Principles and Procedures, Sentencing Policy & Restitutive Justice-Legal and Procedural Aspects–I & II, Process of Trial in Civil Cases-Best Practices, Criminal Appeals & Revisions–Law and Procedure, Legal Facets of Human Trafficking, Jurisprudence of Circumstantial Evidence, Role of Post-mortem in Aid of Justice, Delays in Criminal Trials-Causes & Remedial Measures, Dimensions of Victim Compensation Scheme, Suits against and by the Government–Legal implications, Issues relating to admissibility of dying declaration & suicide note, Law on Amendments of Pleadings, Ballistics Examination and Fire Ammunition, Electronic Evidence Admissibility & Appreciation, Recent Changes in law-Substantive and Procedural,

Summoning of Additional Accused and Evidence–Legal Parameters, Protection against self Incrimination–Dimensions and Applicability, Executions–Speedy & Expeditious Disposals, Cyber Crime Parameters of Investigation–Challenge, Awards under Arbitration & Reconciliation Act–Legal Issues, Interpretation of Revenue Records & their Applicability in Cases–I&II, Stress Management, Law of Admissions and Confessions, Compensation under MACT Act, Determination of Compensation under Land Acquisition Act, E-Courts-Step Towards Modernization, Law Relating to Under Trials, Parole, Furlough & Pre Mature Release of Prisoners, Cordiality amongst Prosecutors, Police, Judiciary & District Administration, Comparison of Handwriting and Expert Evidence, DNA Profiling & Evidence, Miscellaneous Applications under Civil Procedure Code, Medical Evidence–Legal Aspects, Scrutiny of Challan, Vetting of Written Statements of Civil Cases. The different sessions were taken by Dr. Balram K. Gupta, Director (Academics), Dr. K.P. Singh, IPS, DGP, Human Rights, Haryana, Dr. J.S. Dalal, Prof. & Head Department of Forensic Medicine CMC, Ludhiana, V.K. Kapoor, IPS (Retd.), Sanjeev Batra, DA, Sangrur, Faculty from CJA, P&H High Court, CFSL, Chandigarh. In the valedictory function on 14.06.2018, Dr. Balram K. Gupta, Director (Academics), CJA awarded the certificates.

FORTHCOMING EVENTS

1. **Third Batch of 30 Public Prosecutors (DA & DDA) from the State of Punjab** under 14th Finance Commission is scheduled for 10 days training from July 16 to 26, 2018 at Chandigarh Judicial Academy.

2. **Training Programme on ‘Execution of Decrees’** for officers dealing with Executions

pending since the year 2010 or prior thereto from the State of Punjab is scheduled on July 07, 2018.

3. **Refresher-cum-Orientation Course** to sensitize Judicial Officers from the States of Haryana and UT Chandigarh with regard to Execution of Decrees will be organized on July 21, 2018.