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Weekly Legal Current Affairs

20–26 July 2026

This week at a glance

- High Courts keep turning away s.482 petitions because a revision was available. The Supreme Court says stop, and sends the judgment to every High Court.
- A man spent three decades on trial for a bus bombing with no lawyer of his own. The Court will not confirm that conviction, and will not simply acquit him either.
- Murder carries "death or life imprisonment", so is life the minimum or is there no minimum at all? The answer decides whether a 16-year-old is tried as an adult.
- A consent decree said the husband "need not pay any further amount towards maintenance" once a crore was paid. Eleven years later the wife asked the executing court to read past that line.

In this issue

Judgments of the week

1. Standard Chartered Bank v. Enforcement Officer, Ministry of Home Affairs (Criminal Procedure)

2026 INSC 727 · J.B. Pardiwala & Manoj Misra, JJ. · 21 July 2026

Facts. A FERA complaint over a 1991-92 transaction was filed on 30 May 2002 and summons issued the same day. The complainant then did not even collect the summons for nearly two years, failed to serve the accused between 2004 and 2012, sought a non-bailable warrant only in 2012, and stayed absent even after the High Court called the delay deplorable and fixed a one-month deadline for trial. The appellants' petition under s.482 CrPC to quash the complaint was dismissed by the High Court purely on maintainability, because a revision under s.397 lay.

Issue. Does the availability of a revision under s.397 CrPC bar a petition under s.482? Is the opportunity notice under the proviso to s.61(2)(ii) FERA mandatory before cognizance? And can a prosecution frozen for 23 years by the complainant's own inaction survive Article 21?

Held. Section 482 opens with a non obstante clause and only saves an inherent power that was never conferred by the Code, so nothing in the Code, s.397 included, can oust it; Dhariwal Tobacco Products Ltd. v. State of Maharashtra and the three-Judge decision in Prabhu Chawla v. State of Rajasthan, (2016) 16 SCC 30, were reaffirmed, and the Court added that s.483 independently obliges the High Court to superintend Magistrates' courts. On the merits, the proviso to s.61(2)(ii) FERA requires that a person accused of acting without permission first be given an opportunity to show that he had it; where the complaint discloses no date of service and no proof of service accompanies it, cognizance is taken without application of mind. On delay, applying A.R. Antulay and the seven-Judge decision in P. Ramachandra Rao v. State of Karnataka, (2002) 4 SCC 578, the Court asked who was responsible and found the answer to be the complainant at every stage, leaving the accused in what it called a state of suspended animation. The complaint and summoning order were quashed, and the Registry was directed to circulate the judgment to all High Courts.

> ***Why it matters.*** *Read s.397 and s.482 as coexisting, not competing: the limit on inherent power is self-restraint, not a statutory bar, and the new code repeats the scheme in ss.438 and 528 BNSS.*

Provisions: Code of Criminal Procedure 1973, ss.397, 401, 482, 483 (BNSS 2023, ss.438, 442, 528, 529); Foreign Exchange Regulation Act 1973, ss.56, 57, 61(2)(ii); Constitution of India, Art. 21

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2. Dr. Abdul Hameed v. State of Rajasthan Criminal Procedure

2026 INSC 734 · Vikram Nath, Sanjay Karol & Sandeep Mehta, JJ. · 21 July 2026

Facts. On 22 May 1996 a bomb went off inside a passenger bus near village Samleti in Dausa district, Rajasthan, killing and injuring passengers; an FIR followed under ss.302, 307 and 120-B IPC, ss.4 and 5 of the Explosive Substances Act 1908 and s.3 of the Prevention of Damage to Public Property Act 1984. Accused No. 9, Dr. Abdul Hameed, was convicted and sentenced to death; the High Court had earlier remanded the sentencing stage because he had no counsel when he was sentenced. Before the Supreme Court he said he had, in fact, been unrepresented through the entire trial, and the record carried nothing to show that legal aid was ever provided.

Issue. Was a trial conducted without any effective legal representation for the accused consistent with Articles 21 and 22 of the Constitution, and if not, does the conviction end in acquittal or in a fresh trial? Separately, were the High Court's acquittals of the co-accused a reasonably possible view?

Held. The right to be effectively represented, and to competent legal aid at State expense where the accused cannot pay, is an inseparable part of the fair-trial guarantee under Articles 21 and 22, and compliance must be real rather than ritualistic. Following Mohd. Hussain v. State (Govt. of NCT of Delhi), (2012) 9 SCC 408, and Naveen v. State of M.P., (2023) 17 SCC 381, the Court held that denial of representation does not automatically produce an acquittal: the appellate court weighs the accused's entitlement against the nature of the crime and the interests of society, ordering retrial only where that course is indispensable to avert a failure of justice. The conviction and sentence of Accused No. 9 were set aside and the case remitted for a de-novo trial from the stage of prosecution evidence, before a Special Court presided over by an officer of at least seven years' Sessions experience, with a lead defence counsel of ten years' standing (assisted by one of seven years) funded by the Rajasthan State Legal Services Authority, and a one-year outer limit for conclusion. Accused No. 12 was acquitted outright, the prosecution against him resting on confessional statements whose voluntariness stood impeached and on no recovery or discovery at all; and the State's appeals against the acquittal of six other accused failed, the High Court's view being not merely plausible but the only one the evidence permitted.

> ***Why it matters.*** *Retrial under s.386(b) CrPC (now s.427(b) BNSS) is the exception, not the reflex: Suk Das ends in acquittal, Tyron Nazareth and Mohd. Hussain in a fresh trial, and what separates them is the gravity of the offence weighed against the prejudice caused.*

Provisions: Constitution of India, Arts. 21, 22, 39A; Code of Criminal Procedure 1973, ss.303, 304, 313, 386(b) (BNSS 2023, ss.340, 341, 351, 427(b)); Indian Penal Code 1860, ss.302, 307, 120-B; Explosive Substances Act 1908, ss.4, 5; Prevention of Damage to Public Property Act 1984, s.3

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3. X v. State of Bihar Criminal Law

2026 INSC 728 · J.B. Pardiwala & Ujjal Bhuyan, JJ. · 21 July 2026

Facts. A boy was found dead in a field in Saran district in May 2022; the appellant, aged 16 years and 4 months, was alleged to have slit his throat, and the weapon was recovered at his instance. The Juvenile Justice Board conducted a preliminary assessment under s.15 of the JJ Act 2015 and directed that he be tried as an adult; the Sessions Court dismissed his appeal without taking the assistance of psychologists, and the Patna High Court affirmed.

Issue. Is an offence punishable with "death or imprisonment for life" a heinous offence, or does it fall in the fourth category identified in Shilpa Mittal? Is the power in s.101(2) of the JJ Act to take expert assistance mandatory? And what must the Board weigh in a preliminary assessment?

Held. Section 21 of the JJ Act forbids only life imprisonment without the possibility of release; it modulates how a sentence is served and does not rewrite the punishment prescribed by the penal provision. Classification looks to what the offence ordinarily yields under the statute, and it operates at the stage of deciding the forum of trial, whereas s.21 operates at sentencing, so the two cannot be conflated. The plea that Shilpa Mittal v. State (NCT of Delhi) needs reconsideration was rejected: that decision identified a gap which the legislature itself filled by expanding "serious offence" in s.2(54), and murder falls squarely within "heinous offence", outside the fourth category altogether. On s.101(2), the word "may" is discretionary and the appellate court calls in psychologists and medical specialists where the circumstances make expert help necessary. The Board, for its part, is not bound by any expert opinion or recommendation and must assess the whole material together against the four s.15 parameters, namely mental and physical capacity to commit the offence, ability to understand its consequences, and the circumstances in which it was allegedly committed.

> ***Why it matters.*** *Do not read Shilpa Mittal as covering every offence with a wide sentencing range; it addressed offences with no minimum, and life imprisonment as the floor takes murder out of that discussion entirely.*

Provisions: Juvenile Justice (Care and Protection of Children) Act 2015, ss.2(33), 2(54), 9, 15, 18(3), 21, 74, 94(2), 101; Indian Penal Code 1860, ss.302, 201, 34 (BNS 2023, ss.103, 238, 3(5))

4. Vijayalakshmi R. v. C.L. Balaji Family Law

2026 INSC 731 · Sanjay Karol & Augustine George Masih, JJ. · 21 July 2026

Facts. Matrimonial proceedings begun in 2013 on a joint application for twenty per cent of the husband's annual income towards the son's maintenance were replaced by a settlement petition of 29 August 2015: Clause 8 fixed a capital sum of Rs 2,20,00,000 payable in instalments, Clause 9 retained the income-linked payment, and Clause 10 said that once Rs 1,00,00,000 was paid no further maintenance need be paid. The full amount was paid by 28 July 2017. The wife filed an execution petition in March 2022 claiming arrears under Clause 9; the Family Court at Bengaluru dismissed it and the Karnataka High Court affirmed.

Issue. On a true construction of the consent decree, did Clause 9 create an independent and continuing obligation surviving the payments under Clauses 8 and 10, and how far may an executing court go in construing the decree it is asked to enforce?

Held. Execution proceedings admit only a limited enquiry: whether, on a true construction of the settlement, the obligation said to be unsatisfied still subsists, not whether a larger or different provision ought now to be made. Clause 10 is plain and unqualified; Clause 9 by its own text concerns maintenance of the son and falls within that discharge. Clause 8 fixes the quantum, Clause 9 secures the son during the instalment period, and Clause 10 marks the point of discharge, so every clause is given effect, whereas the wife's reading would leave Clause 10 with nothing to operate upon. The rule that an earlier clause prevails over a later one applies only to irreconcilable repugnancy, which does not arise here. Conduct confirmed the construction: no demand for five years, a registered release deed, an unqualified no-objection letter and an affidavit acknowledging receipt of the full sum. The Article 136 Limitation Act point failed too, since delay was noticed as evidence of the parties' own understanding and not as a bar of limitation.

> ***Why it matters.*** *A consent decree is construed like any other instrument, so the canon against rendering a clause otiose does real work; keep the construction question separate from limitation, because a live twelve-year execution period proves nothing about what the decree means.*

Provisions: Code of Civil Procedure 1908, s.47; O.XXI; Family Courts Act 1984, s.19(1); Limitation Act 1963, Art. 136; Constitution of India, Arts. 136, 142

In brief — also on the docket this week

5 Prabhakar Yeshwant Masram v. Sou Tula Namdeorao Jaipurkar Criminal Procedure

2026 INSC 724 · Ujjal Bhuyan & Atul S. Chandurkar, JJ. · 21 July 2026

Issue. Can a court order a complaint for perjury under s.340 CrPC against a party and his counsel on a prima facie finding that "wrong statements" were made in pleadings, without recording that an inquiry is expedient in the interests of justice?

Held. Inadvertent errors amount to a wrong statement, while falsity imports an intent to deceive coupled with knowledge, actual or constructive, and typographical mistakes for which a correction application had already been moved could not cross that line. Santokh Singh v. Izhar Hussain was applied: prosecution is ordered in the larger interest of the administration of justice and only in glaring cases of deliberate falsehood where conviction is likely, not to gratify a private party. The High Court compounded the error by recording, in the accused's own appeal, findings of falsity and expediency that the first court had never recorded, placing the appellants in a worse position for having appealed. Iqbal Singh Marwah was recalled for the caution that such a direction should normally await the conclusion of the substantive proceedings.

6 Rutvij Bhagat Singh Wakhare v. State of Maharashtra Constitution

2026 INSC 740 · Sanjay Karol & Augustine George Masih, JJ. · 24 July 2026

Issue. Can a petitioner facing cyber-fraud FIRs in three States come straight to the Supreme Court under Article 32 to quash them, or in the alternative have them clubbed for one composite investigation?

Held. The petitioner showed neither an infringed fundamental right nor any exigency justifying a bypass of the ordinary procedure, and was relegated to the High Court. On clubbing, T.T. Antony v. State of Kerala bars a second FIR for the same occurrence, but Babubhai v. State of Gujarat supplies the test of sameness and Anju Chaudhary v. State of U.P. permits a fresh FIR where the incident is separate or of a magnitude the first cannot absorb. Each FIR here rested on a distinct complainant and an independent transaction, and with forensic examination of electronic evidence, banking trails and money flows still under way across Maharashtra, Karnataka and Odisha, a composite investigation would impede rather than assist a fair one.

7 Mehboob Shah v. State of Madhya Pradesh Criminal Law

2026 INSC 729 · Sanjay Karol & N. Kotiswar Singh, JJ. · 21 July 2026

Issue. Does s.50 NDPS apply where contraband is recovered from a water bottle the accused is carrying, is delayed compliance with s.52A fatal, and can a 1997 convict claim the benefit of the quantity-based sentencing introduced in 2001?

Held. Following State of H.P. v. Pawan Kumar and Ranjan Kumar Chadha v. State of H.P., the safeguard in s.50 is confined to a search of the person, so a bottle, bag or container falls outside it; on the facts the appellant had in any event been offered a search before a Gazetted Officer or Magistrate. On s.52A, Narcotics Control Bureau v. Kashif, (2024) 11 SCC 372, and Bharat Aambale v. State of Chhattisgarh, (2025) 8 SCC 452, were followed: the purposes in sub-section (2) are alternative, seizure memos and panchnamas remain primary evidence, and delay or lapse neither vitiates the trial nor entitles the accused to acquittal absent demonstrated prejudice. The conviction under ss.8 and 21 stood; the sentence was brought down from fourteen years to the unamended minimum of ten, no aggravating circumstance justifying more.

8 Sanjay Kumar v. State of Bihar `Evidence`

2026 INSC 735 · Sanjay Karol & N. Kotiswar Singh, JJ. · 21 July 2026

Issue. Where the ocular account attributes a specific shot to a specific accused and one injury matches, may an appellate court reverse a concurrent acquittal by relying on that single corroborated circumstance?

Held. The post-mortem disclosed three firearm tracks while the FIR and eyewitnesses attributed distinct shots to distinct accused, and the injury the ocular version treated as a separate shot was medically an exit wound. Of five independent witnesses named in the chargesheet only two were examined and both turned hostile, with no explanation for withholding the rest, and the fardbeyan was recorded over five hours late and the FIR registered after seventeen. The accused need not show the prosecution case to be false in every respect; it is enough that the evidence raises a reasonable doubt. On concurrent acquittals the Court will not substitute its own view merely because another view is possible.

9 Telecom Regulatory Authority of India v. M/s Polimer Cable Network `Service / Admin`

2026 INSC 742 · S.V.N. Bhatti & N.V. Anjaria, JJ. · 24 July 2026

Issue. When TRAI directs a multi-system operator to comply with the Interconnection Regulations and issues a show-cause notice, does it adjudicate a dispute and thereby trespass on the exclusive jurisdiction of the TDSAT?

Held. Adjudication, on the tests in Cooper v. Wilson as adopted in Bharat Bank Ltd. v. Employees of Bharat Bank and applied in Indian National Congress (I) v. Institute of Social Welfare, (2002) 5 SCC 685, presupposes an existing lis and ends in a binding determination of rights. TRAI resolved no controversy, quantified no arrears and moulded no relief; a show-cause notice decides nothing and is only a preparatory step. Its direction operated on the regulated entity under s.11(1)(b) read with s.13, and on non-compliance TRAI is merely a complainant under s.34, the fine under s.29 being for a court not below a Chief Metropolitan Magistrate or Chief Judicial Magistrate. Where the real grievance is a dispute between service providers, that lies before the TDSAT under ss.14 and 14A.

10 In Re: Illegal Sand Mining in the National Chambal Sanctuary v. State of Rajasthan `Constitution`

2026 INSC 745 · Vikram Nath & Sandeep Mehta, JJ. · 22 July 2026

Issue. In suo motu proceedings over illegal sand mining in the National Chambal Gharial Sanctuary, what further directions follow on the compliance affidavits of three States, the NHAI and the MOEF&CC, and the Central Empowered Committee's Third Report?

Held. Acting on the CEC's Third Report of 20 July 2026 and the amicus curiae's collation, the Court reviewed progress on surveillance and enforcement across Rajasthan, Madhya Pradesh and Uttar Pradesh, including CCTV networks integrated with police command centres, drones and body-worn cameras, and protective monitoring by the NHAI around the Morena-Dholpur bridge on NH-44. Officers of defaulting district administrations may be proceeded against in accordance with law where directions are ignored despite resources and opportunity. The CEC's proposal to widen the proceedings into a uniform national framework for riverine protected areas was deferred for consideration after the States, NHAI and MOEF&CC respond, and the matter was listed for 11 August 2026.

11 Union of India v. Harbans Lal Verma `Service / Admin`

2026 INSC 739 · Sanjay Karol & Augustine George Masih, JJ. · 23 July 2026

Issue. Do movements within the Railway Guard cadre, which carry the same Grade Pay, count as promotions under Paragraph 8 of the MACP Scheme, or does the illustration to Paragraph 5 exclude them so that further financial upgradation is due?

Held. The Scheme answers stagnation caused by the absence of promotional opportunity, and an employee who moved from goods to passenger to mail and express duty, drawing a promotional increment and enhanced running-duty allowances at each stage, has not stagnated merely because Grade Pay stayed constant. Constant Grade Pay was a pay-structure decision of the Sixth CPC and cannot be undone through the Scheme. A contrary reading would let the holder of the cadre's highest post draw a Grade Pay above the highest available on any actual promotion, an anomaly the Scheme cannot have intended. RBE No. 76/2011 and RBE No. 142/2012 were upheld as binding clarifications; contrary Allahabad and Patna High Court decisions were held not to state the law correctly, the earlier dismissal of SLPs against them having left the question open.

12 M/s Birla Corporation Ltd. v. State of Madhya Pradesh `Property / TPA`

2026 INSC 738 · Sanjay Karol & Augustine George Masih, JJ. · 23 July 2026

Issue. For a limestone mining lease executed in the statutory Form K, is stamp duty to be computed on the dead rent reserved by the lease or on the anticipated royalty?

Held. Dead rent and royalty are distinct species of consideration in a mining lease. Following D.K. Trivedi & Sons v. State of Gujarat, dead rent is a fixed return calculated on the area demised and operates as the minimum guaranteed royalty, whereas royalty varies with the quantity of mineral extracted or removed, as the nine-Judge Bench explained in Mineral Area Development Authority v. Steel Authority of India Ltd. Section 9A of the MMDR Act 1957 governs dead rent, and a lessee liable for both must pay whichever is higher. Since Form K, a statutory form, states in terms that stamp duty is to be calculated on anticipated royalty, the method admits of no doubt and the appeal was dismissed.

Statutes, appointments & policy

NEW LAWS, AMENDMENTS & KEY BILLS

- **Supreme Court (Number of Judges) Amendment Bill, 2026 introduced as Monsoon Session opens.** The Monsoon Session began on 20 July 2026 (running to 13 August) with 28 Bills pending, and on the opening day Law Minister Arjun Ram Meghwal introduced the Supreme Court (Number of Judges) Amendment Bill, 2026 (Bill No. 128 of 2026) in the Lok Sabha. It raises the sanctioned strength of the Court from 33 judges to 37 besides the Chief Justice, replacing the Ordinance promulgated on 16 May 2026, and cites 92,101 cases pending as on 1 January 2026. The Bill was listed for consideration and passing on 22 July, alongside a statutory resolution moved by Sougata Ray, N.K. Premachandran and Dean Kuriakose disapproving the Ordinance. Only a simple majority is needed, no constitutional amendment being involved. **— 20 July 2026 · prsindia.org**
- **Cabinet clears the Public Examinations (Prevention of Unfair Means) Amendment Bill, 2026.** On 24 July 2026 the Union Cabinet approved amendments to the Public Examinations (Prevention of Unfair Means) Act, 2024, following the alleged NEET-UG 2026 paper leak. The Bill raises the minimum sentence to five years and the maximum to ten, lifts the maximum fine, requires investigation to be completed within 60 days, and provides for Special Fast Track Courts and greater accountability for service providers. It was introduced in the Lok Sabha on 27 July 2026. **— 24 July 2026 · indiatvnews.com**

POLICY & JUSTICE ADMINISTRATION

- **Fast Track Special Courts scheme extended to 30 September 2026.** The Ministry of Law and Justice told Parliament on 26 July 2026 that the Centre has extended the Fast Track Special Courts scheme until 30 September 2026, and that 775 FTSCs, including 398 exclusive POCSO courts, were functional across 29 States and Union Territories as on 30 April 2026. The scheme, run as a Centrally Sponsored Scheme since October 2019 for rape and POCSO cases, is one arm of the pendency-reduction effort that also includes Phase III of the e-Courts project. **— 26 July 2026 · aninews.in**

Clear Concepts — textbook revision of two core concepts

Right to Counsel and Free Legal Aid

Constitution / Criminal Procedure

Constitution of India, Arts. 21, 22(1), 39A · CrPC 1973, ss.303–304 (BNSS 2023, ss.340–341) · Legal Services Authorities Act 1987, ss.12, 13

Article 22(1) guarantees every arrested person the right to consult and be defended by a legal practitioner of his choice; s.303 CrPC repeats it for any accused, and s.304 obliges a Court of Session to assign counsel at State expense where the accused lacks the means. Article 39A adds the directive of equal justice and free legal aid. From the fairness ingredient of Article 21 the Supreme Court has derived a distinct fundamental right to free legal service.

The statutory scheme.

- s.303 CrPC (s.340 BNSS): any accused, or person against whom proceedings are instituted, may of right be defended by a pleader of his choice; no vakalatnama is needed, a memo of appearance suffices.
- s.304(1) CrPC (s.341 BNSS): in a Sessions trial the court shall assign a pleader at State cost where the accused is unrepresented and has not sufficient means; "shall" leaves no discretion.
- s.304(2) and (3): High Court rules govern selection, facilities and fees, and the State Government may extend the section to other courts by notification.
- Legal Services Authorities Act 1987: s.12 lists the entitled categories and s.13 requires only a prima facie case, the Authorities bearing the cost.

The constitutional overlay.

- The right is available in every case involving jeopardy to life or personal liberty, before a Magistrate as much as a Sessions Judge, and does not depend on the accused asking for it.
- The court is under a duty to inform the accused of the entitlement; recording that no request was made does not discharge it.
- Representation must be effective, not formal: a raw or inexperienced lawyer should not be appointed, and a case cannot be decided in the absence of defence counsel.
- Denial vitiates the trial, but the consequence is either acquittal or a de-novo trial, chosen by weighing the infirmity against the gravity of the offence.

Limits and cautions.

- Section 304(1) is imperative only for Sessions trials; before Magistrates the statutory duty arises on a s.304(3) notification, though Article 21 operates regardless.
- Free legal service has been said not to extend to some economic offences and offences against laws on prostitution or child abuse, where social justice may not require it.
- "Of his choice" also means an accused may decline State-appointed counsel he does not trust.

Leading cases.

- Hussainara Khatoon v. Home Secretary, State of Bihar, AIR 1979 SC 1369 — free legal service to an indigent accused is implicit in the fairness required by Art. 21.
- Khatri v. State of Bihar, AIR 1981 SC 928 — the right imposes a legal duty on the court before which the accused first appears.
- Suk Das v. Union Territory of Arunachal Pradesh, AIR 1986 SC 991 — the duty does not depend on an application; conviction without offering legal aid was set aside.
- Md. Sukur Ali v. State of Assam, AIR 2011 SC 1222 — a criminal case cannot be decided against an accused in the absence of counsel; appoint an amicus.
- Mohd. Hussain v. State (Govt. of NCT of Delhi), (2012) 9 SCC 408 — where representation was denied, retrial under s.386(b) is ordered only where indispensable to avert failure of justice.

Exam tip. Distinguish the two sources: s.304 CrPC is a statutory duty confined to Sessions trials, while the Article 21 right runs across every court, which is why a Magistrate's conviction can be quashed even without a s.304(3) notification.

Ex Parte Decrees and Order IX

Civil Procedure (CPC)

CPC 1908, O.IX rr.6, 7, 13; ss.96(2), 151; O.XLVII r.1 · Limitation Act 1963, Art. 123

Where the summons has been duly served and the plaintiff appears but the defendant does not, O.IX r.6 lets the court proceed ex parte, and the decree that follows is an ex parte decree rather than a decree by consent or on admission. It is a decree on the merits, so it binds until set aside. Order IX r.13 supplies the defendant's own remedy, and it runs alongside, not instead of, an appeal or a review.

Grounds under r.13.

- Two grounds only: that the summons was not duly served, or that the defendant was prevented by sufficient cause from appearing when the suit was called on.
- "Sufficient cause" is elastic and receives a justice-oriented rather than a technical construction, provided the absence was neither mala fide nor deliberate.
- First proviso: where the decree cannot be set aside against one defendant alone, it may be set aside against the others too.
- Second proviso: no decree is set aside for mere irregularity in service if the defendant had notice of the hearing and time enough to appear and answer.

Procedure, limitation and effect.

- The application lies to the court that passed the decree; limitation is thirty days under Art. 123 of the Limitation Act 1963, from the date of the decree or, where summons was not duly served, from knowledge of it.
- Terms as to costs or payment into court may be imposed, and on setting aside the decree the court appoints a day for proceeding with the suit.
- Rule 7 is different: it lets a defendant who appears late be heard on assigning good cause, but only while the suit is still pending.
- The Explanation bars a r.13 application where an appeal against the ex parte decree has been disposed of on any ground other than withdrawal.

Concurrent remedies.

- The defendant may apply under r.13, appeal under s.96(2), or seek review under O.XLVII r.1, and may pursue them concurrently.
- The proper forum to decide whether there was sufficient cause is the court that passed the decree, since the question turns on evidence of fact.
- Rule 13 answers non-appearance; s.96(2) tests the decree on the merits. Dismissal of a r.13 application does not take away the statutory first appeal, but the Explanation bars a r.13 application once an appeal has been disposed of otherwise than on withdrawal.

Leading cases.

- A. Murugesan v. Jamuna Rani, (2019) 20 SCC 803 — "sufficient cause" is elastic and admits of no straitjacket formula; the only question is the reason for absence when the matter was called.
- Bhivchandra Shankar More v. Balu Gangaram More, (2019) 6 SCC 387 — dismissal of a r.13 application does not take away the statutory first appeal under s.96(2), and time spent on the r.13 application is sufficient cause for condoning delay in that appeal.
- Naresh Chandra Aggarwal v. Bank of Baroda (2001) — substituted service is as effectual as personal service, but service must be a reality and not a formality.
- Bank of Baroda v. Sansar Chand Kapur (1994) — counsel engaged in another court is sufficient cause, provided he honestly intended to reach the court in time.
- Mahendra Rathore v. Omkar Singh (2002) — an uncontroverted medical explanation on oath ought ordinarily to result in restoration.

Exam tip. Rule 9 and Rule 13 are routinely mixed up: r.9 restores a suit dismissed for the plaintiff's default, r.13 sets aside a decree passed in the defendant's absence, and only r.13 carries the two-ground test.

Revision capsule — one-line recap of every ruling

- **Standard Chartered Bank:** Mere availability of the revisional remedy is no ground to refuse relief under s.482 CrPC; the FERA opportunity notice is mandatory and its service must be proved before cognizance; and a complaint kept alive for 23 years by the prosecution’s own default offends the right to a speedy trial.
- **Dr. Abdul Hameed:** A trial in which the accused was left effectively undefended is constitutionally vitiated, but the remedy is fashioned by balancing that infirmity against the gravity of the offence; here the conviction and death sentence were set aside and a de-novo trial ordered before a designated Special Court at Jaipur.
- **Prabhakar Yeshwant Masram:** A wrong statement is not a false statement, and s.340(1) requires the court to first form the opinion that an inquiry is expedient in the interests of justice; an order lacking that satisfaction is bad in law.

- **X:** Section 302 IPC carries imprisonment for life as its minimum and is therefore a heinous offence under s.2(33) of the JJ Act; the Sessions Court's power under s.101(2) to take expert assistance is discretionary, and the Board must independently apply its mind to the four parameters in s.15.
- **Rutvij Bhagat Singh Wakhare:** Article 32 is not a substitute for s.482 CrPC or Article 226 where no infringement of a fundamental right and no exceptional circumstance is shown, and FIRs by different complainants over distinct transactions fail the test of sameness, so no clubbing follows.
- **Mehboob Shah:** Section 50 governs only the personal search of the accused and not the search of an article he carries; a lapse under s.52A is a procedural irregularity unless prejudice is shown; and the 2001 amendment to s.21 cannot be applied to a conviction that preceded it, though the sentence was reduced to the statutory minimum of ten years.
- **Sanjay Kumar:** A criminal court cannot pick the one corroborated portion of the evidence and ignore the rest; where the medical evidence does not support the detailed attribution of separate shots to separate assailants and independent witnesses have not supported the prosecution, a concurrent acquittal will not be disturbed.
- **Vijayalakshmi R.:** The executing court cannot go behind the decree; on a harmonious reading, Clauses 8, 9 and 10 form one interlocking arrangement in which the income-linked payment ceased once Rs 1,00,00,000 was paid, and a general obligation to maintain cannot be used in execution to revive a discharged term.
- **Telecom Regulatory Authority of India:** A direction to obey a subsisting regulation is regulatory enforcement, not adjudication; TRAI may record a prima facie finding of non-compliance but cannot decide rights inter se, award damages or levy the fine, which belongs to a criminal court under s.29 of the TRAI Act.
- **In Re: Illegal Sand Mining in the National Chambal Sanctuary:** Continuing mandamus was maintained: the MOEF&CC undertaking that no de-notification of sanctuary areas and no new projects except unavoidable drinking-water projects will be taken up without leave of the Court was accepted and made binding, and repeated district-level default may be treated as wilful non-compliance.
- **Union of India:** Functional promotions within the Guard cadre are promotions for Paragraph 8, so a Guard who has risen to Mail/Express Guard has exhausted all three financial upgradations; the Paragraph 5 illustration is transitional and does not override Paragraph 8.
- **M/s Birla Corporation Ltd.:** Form K itself prescribes anticipated royalty as the yardstick for computing stamp duty, and parties who consciously executed that statutory form cannot resurrect Article 33 of Schedule I of the Stamp Act to escape it.

Prelims Q&A — real past questions, with old→new code mapping

Q1. Which of the following sections of the Code of Criminal Procedure provides accused the right to be defended by a pleader of his choice?

A. Section 304
B. Section 303
C. Section 302
D. Section 306

> **Ans: B.** Section 303 CrPC says that any person accused of an offence before a Criminal Court may of right be defended by a pleader of his choice; s.304 is the separate provision for legal aid at State expense in Sessions trials. Old: s.303 CrPC (right to be defended) → New: s.340 BNSS, 2023; Old: s.304 CrPC (legal aid at State expense) → New: s.341 BNSS, 2023. This week's lead ruling in Dr. Abdul Hameed turned on exactly this pairing. **[Chhattisgarh Judiciary Prelims 2017]**

Q2. A Magistrate has the power to direct the police to investigate into an offence in CrPC under

A. Section 156(3) Cr.P.C.
B. Section 156(2) Cr.P.C.
C. Section 156(1) Cr.P.C.
D. All of the above

> **Ans: A.** Sub-section (1) confers the police officer's own power to investigate a cognizable case, sub-section (2) protects an investigation from being questioned for want of territorial power, and only sub-section (3) empowers a Magistrate competent under s.190 to order an investigation. Old: s.156(3) CrPC → New: s.175(3) BNSS, 2023, which now requires the Magistrate to consider the police officer's submissions before ordering investigation. **[Jharkhand Judiciary Prelims 2015]**

Q3. Under Section 395 of the Code of Criminal Procedure, which court can entertain a case under reference?

A. Supreme Court
B. Trial Court
C. Session Court
D. High Court

> **Ans: D.** A reference on the validity of an Act, Ordinance or Regulation lies only to the High Court, and the referring court states a case with its own opinion. Old: s.395 CrPC (reference to High Court) → New: s.436 BNSS, 2023. Do not confuse it with revision, which is s.397 CrPC / s.438 BNSS. **[Chhattisgarh Judiciary Prelims 2017]**

Q4. The burden of proof means the obligation to prove a fact. This is defined under

A. Section 201 of the Indian Evidence Act
B. Section 101 of the Indian Evidence Act
C. Section 200 of the Indian Evidence Act
D. Section 100 of the Indian Evidence Act

> **Ans: B.** Section 101 fixes the legal burden on whoever wants the court to give judgment on a right or liability dependent on facts he asserts. Section 102 supplies the who-would-fail test and s.103 deals with the burden as to a particular fact. Old: s.101 Evidence Act → New: s.104 BSA, 2023 (s.102 → s.105, s.103 → s.106, s.106 → s.109). **[Jharkhand Judiciary Prelims 2015]**

Q5. Alibi is governed by

A. Section 8 of Evidence Act
B. Section 6 of Evidence Act
C. Section 11 of Evidence Act
D. Section 12 of Evidence Act

> **Ans: C.** A plea of alibi works through s.11, under which facts otherwise irrelevant become relevant if they are inconsistent with a fact in issue or make its existence highly improbable; the burden of establishing it lies on the accused. Old: s.11 Evidence Act → New: s.9 BSA, 2023. **[Jharkhand Judiciary Prelims 2015]**

Q6. Provision for setting aside ex-parte decree is –

A. Order 9 Rule 7
B. Order 9 Rule 9
C. Order 9 Rule 13
D. Order 9 Rule 8

> **Ans: C.** Rule 13 is the defendant's remedy against an ex parte decree; Rule 9 is the plaintiff's remedy where the suit was dismissed for his default; Rule 7 lets a defendant who appears late be heard on showing good cause, but only before the decree. The CPC is untouched by the 2023 codes, so no old-to-new mapping arises. **[Madhya Pradesh Judiciary Prelims 2019]**

Q7. If the tenancy of an immovable property is monthly, then in order to terminate the lease of it, a notice of which period shall be given :-

A. One month
B. Two months
C. Six months
D. Fifteen days

> **Ans: D.** Section 106 of the Transfer of Property Act 1882, as substituted in 2003, makes a lease for agricultural or manufacturing purposes year to year, terminable on six months' notice, and every other lease month to month, terminable on fifteen days' notice. The notice must also expire with the end of a tenancy month. **[Madhya Pradesh Judiciary Prelims 2019]**

Q8. A contract made by a minor is void ab initio. It was laid down in

A. Kanhiyalal v. Girdhari Lal
B. Mohammad Saeed v. Vishambhar Dayal
C. Mohri Bibi v. Dharmo Dass Ghosh
D. Lalman Shukla v. Gauri Dutt

> **Ans: C.** Mohori Bibee v. Dharmodas Ghose, (1903) 30 IA 114, settled that an agreement by a minor is void ab initio, s.11 of the Contract Act requiring competence by majority. Lalman Shukla v. Gauri Dutt is the knowledge-of-offer case; the Contract Act is unchanged by the 2023 codes. **[Bihar Judiciary Prelims 2013]**

Q9. A boy aged sixteen years and four months is alleged to have committed an offence punishable under Section 302 IPC. For deciding whether he may be tried as an adult, how is that offence classified under the Juvenile Justice (Care and Protection of Children) Act, 2015?

A. A heinous offence, imprisonment for life being the minimum punishment prescribed
B. A serious offence, because Section 21 bars a life sentence without the possibility of release
C. An offence of the fourth category identified in Shilpa Mittal, no minimum being prescribed
D. A petty offence, the child being below eighteen years of age

> **Ans: A.** In X v. State of Bihar, 2026 INSC 728, the Court held that "death or imprisonment for life" makes imprisonment for life the minimum, so s.302 IPC (now s.103 BNS, 2023) is a heinous offence under s.2(33). Section 21 operates at sentencing and cannot be imported into classification, which decides the forum of trial. **[This week's ruling: X v. State of Bihar]**

Q10. A High Court dismisses a petition under Section 482 CrPC solely on the ground that the petitioner could have filed a revision under Section 397. Such an order is

A. correct, since a specific remedy excludes the general one
B. correct, since inherent powers may be invoked only after the revisional remedy is exhausted
C. incorrect, but only where a second revision stands barred by Section 397(2)
D. incorrect, since the availability of a revision is by itself no ground to refuse relief under Section 482

> **Ans: D.** Standard Chartered Bank v. Enforcement Officer, 2026 INSC 727, reaffirmed Dhariwal Tobacco and Prabhu Chawla v. State of Rajasthan, (2016) 16 SCC 30: s.482 opens with a non obstante clause and preserves a power not conferred by the Code, so nothing in the Code ousts it; the only limitation is self-restraint. Old: ss.397, 482 CrPC → New: ss.438, 528 BNSS, 2023. **[This week's ruling: Standard Chartered Bank v. Enforcement Officer]**

Mains Q&A — real state mains questions, with model answers

Mains Q1. — **Bihar Judicial Service Mains, 2021 · Constitutional Law — Article 21 from Gopalan to the present**

Since literal approach of Supreme Court in A.K. Gopalan case, a sea change has taken place while giving meaning and content to the provisions of Article 21 of the Constitution by the courts. Discuss in detail on the important developments mentioning the changing shape of Article 21 by Apex Court through various pronouncements.

A.K. Gopalan v. State of Madras, 1950 SCR 88, gave Article 21 its narrowest possible reading. A majority of five of the six Judges treated the guarantee as protection against executive action unsupported by law, held that "procedure established by law" meant nothing more than procedure prescribed by State-made law, and confined "deprivation" to total loss of liberty. Underlying all of it was the premise that the fundamental rights sat in separate compartments, so that a law curtailing one right could not be tested on the anvil of another. On that view the quality of the procedure was simply not the Court's business.

The first breach came with R.C. Cooper v. Union of India, (1970) 1 SCC 248, where eleven Judges rejected the compartment theory and directed attention to the direct and inevitable effect of a law rather than its object. Kharak Singh had already widened "personal liberty" beyond freedom from physical restraint. The decisive turn was Maneka Gandhi v. Union of India, AIR 1978 SC 597, in which seven Judges held that the procedure contemplated by Article 21 must be right, just and fair, and not arbitrary, fanciful or oppressive; a procedure that is unreasonable is no procedure at all, because the reasonableness that pervades Article 14 permeates Article 21 as well, and natural justice is implicit in the guarantee. The triple test since applied in District Registrar and Collector v. Canara Bank, (2005) 1 SCC 496, follows from this: there must be a procedure, it must survive the applicable clauses of Article 19, and it must satisfy Article 14.

What followed was expansion in two directions. "Life" ceased to mean animal existence and came to include living with human dignity, so that livelihood (Olga Tellis v. Bombay Municipal Corporation, AIR 1986 SC 180) and the bare necessities recognised in Francis Coralie Mullin were drawn in; and the negative command not to interfere acquired a positive content, obliging the State to act. In criminal justice, the fairness ingredient produced the right to a speedy trial and to free legal service for an indigent accused (Hussainara Khatoon v. Home Secretary, State of Bihar, AIR 1979 SC 1369; Khatri v. State of Bihar, AIR 1981 SC 928; Suk Das v. Union Territory of Arunachal Pradesh, AIR 1986 SC 991), a duty on the court that does not wait for an application.

The trajectory is visible even now. In Dr. Abdul Hameed v. State of Rajasthan, 2026 INSC 734, decided on 21 July 2026, a conviction of nearly three decades' standing was set aside because the accused had been left effectively undefended, and a fresh trial ordered with counsel at State cost. Article 21, read literally in 1950, is today the provision through which the Court audits the fairness of the process itself.

Mains Q2. — **Jharkhand Judicial Service Mains, Law Paper I, 2015 · Criminal Procedure — appeals against acquittal; trial in absence of the accused**

Explain the following: (i) Appeal against acquittal; (ii) Trial in the absence of the accused.

An appeal against acquittal is a creature of statute and is deliberately hedged. Under s.378 CrPC (now s.419 BNSS, 2023) the District Magistrate may direct the Public Prosecutor to appeal to the Court of Session against a Magistrate's acquittal in a cognizable and non-bailable case, and the State Government may direct an appeal to the High Court against any other order of acquittal; where the investigation was by the Delhi Special Police Establishment or a like central agency, the Central Government may do so. In a complaint case the complainant must first obtain special leave from the High Court, and the application is time-barred after six months where he is a public servant and sixty days otherwise. Since 2009 the proviso to s.372 (now s.413 BNSS) gives the victim an independent right of appeal against acquittal, though the Supreme Court has held that proviso to be prospective.

The distinctive feature lies not in the width of the power but in the restraint with which it is used. The presumption of innocence is neither weakened by conviction nor strengthened by acquittal; it runs until the final court holds otherwise, and an acquittal reinforces it. The appellate court has full power to review and re-appreciate the evidence, yet it may interfere only where the view taken below is perverse, or where important evidence has been ignored, and never merely because a second view is available. Chandrappa v. State of Karnataka, (2007) 4 SCC 415, and Shyam Babu v. State of U.P., (2012) 8 SCC 651, put it plainly: if two views are reasonably possible and the trial court has taken the one favouring the accused, that view must stand. Sanjay Kumar v. State of Bihar, 2026 INSC 735, decided on 21 July 2026, applied the rule to a concurrent acquittal where the medical evidence did not match the attribution of separate shots to separate assailants.

Trial in absence is the exception to s.273 CrPC (s.308 BNSS), which requires evidence to be taken in the presence of the accused or his pleader. Section 317 (s.355 BNSS) allows a Judge or Magistrate, for reasons recorded, to dispense with personal attendance where it is not necessary in the interests of justice or where the accused persistently disturbs the proceedings, but only if he is represented by counsel, and personal attendance may be directed again at any stage; the BNSS explanation now treats appearance by audio-video means as personal attendance. Section 299 (s.335 BNSS) permits evidence to be recorded in the absence of an absconding accused for use later. The genuinely new provision is s.356 BNSS, which for the first time permits inquiry, trial and even judgment in absentia against a proclaimed offender, subject to its own safeguards.

Mains Q3. — **Madhya Pradesh Judicial Service Mains, 2021 · Limitation — bar of remedy and extinguishment of right**

"Limitation bars the remedy but does not destroy the right." Discuss and state the exceptions if any.

The Limitation Act 1963 is a statute of repose, of peace and of rest. Section 3 tells a court what to do rather than what a litigant loses: every suit instituted, appeal preferred and application made after the prescribed period shall be dismissed although limitation has not been set up as a defence. The duty is on the court and it arises even if the defendant never pleads the bar. What is extinguished by that dismissal is the judicial remedy; the underlying obligation survives, and the creditor may still enforce it by any lawful means other than a suit. Bombay Dyeing and Manufacturing Co. Ltd. v. State of Bombay, AIR 1958 SC 328, states the principle in those terms.

The practical consequences are considerable. A debtor who voluntarily pays a time-barred debt cannot recover the money as paid under mistake, for he has discharged a subsisting liability. A creditor holding goods or money of the debtor may retain them, and a banker may adjust a time-barred debt against a credit balance in exercise of his lien or right of set-off. Section 25(3) of the Contract Act 1872 makes the position clearer still: a written and signed promise to pay a debt of which the creditor might have enforced payment but for the law of limitation is a valid contract without fresh consideration, and it furnishes a fresh cause of action. Acknowledgment under s.18 and part payment under s.19 of the Limitation Act operate differently; they start a fresh period, but only if made before the original period expires, so they presuppose a live remedy rather than revive a dead one.

The rule is not absolute. The standing exception is s.27, which provides that at the determination of the period prescribed for a suit for possession of property, the right to that property is itself extinguished. It is on this section that title by adverse possession rests, and it is why a dispossessed owner who sleeps for twelve years loses not merely his suit but his title. A second qualification lies in s.3(2)(b), which treats a set-off or a counter-claim as a separate suit instituted on the date it is pleaded, so a defendant cannot use a pleading to smuggle in a stale claim. To these may be added the special statutes that themselves extinguish rights on the lapse of time.

The distinction therefore has real work to do. Limitation belongs to the law of procedure and to the lex fori; it closes the courthouse door without dissolving the obligation, and it destroys the right only where the legislature has said so in terms.

Mains Q4. — **Delhi Judicial Service Mains, Civil Law-II, 2019 · Evidence — the best evidence rule**

"In each case the best available evidence should be produced." Elaborate with at least four illustrations.

The maxim carries two related ideas: that the law should admit only those facts which have high probative value, and that such facts must be established by the best available method of proof. The Evidence Act nowhere states the rule in those words, but it is built into the Act's architecture, as the Supreme Court observed in Kalyan Kumar Gogoi v. Ashutosh Agnihotri, (2011) 2 SCC 532. Applied to oral testimony the rule prefers direct evidence to hearsay; applied to documents it prefers primary evidence to secondary.

The first illustration is documentary. Section 64 requires documents to be proved by primary evidence, that is, the original itself, and s.65 admits secondary evidence only in the enumerated situations, on foundation being laid. Bai Hira Devi v. Official Assignee of Bombay, AIR 1958 SC 448, describes the rule as exclusionary in effect: where written documents exist, they must be produced as being the best evidence of their own contents.

The second is oral. Section 60 insists that oral evidence be direct, so the witness must be the person who saw, heard or perceived the fact by the sense to which it is capable of being perceived, and an opinion must come from the man who holds it. Hearsay is excluded not because it is always false but because it is never the best available means of proof, and the exceptions such as dying declarations rest on necessity.

The third concerns the terms of transactions. Where a contract, grant or disposition of property has been reduced to the form of a document, s.91 makes the document the sole evidence of its terms and s.92 shuts out oral evidence to contradict, vary, add to or subtract from those terms as between the parties. It is worth remembering, as Ramji Dayawala and Sons (P) Ltd. v. Invest Import, AIR 1981 SC 2085, holds, that proving handwriting and execution proves only that the document was written, not that its contents are true.

The fourth is the sanction. A party who withholds the best evidence within his reach invites the presumption in illustration (g) to s.114, that evidence which could be but is not produced would, if produced, be unfavourable to him. This week's decision in Sanjay Kumar v. State of Bihar, 2026 INSC 735, is a working example: five independent witnesses were cited in the chargesheet, only two were examined and both turned hostile, and the unexplained withholding of the rest was held a legitimate circumstance for doubting the prosecution.

The rule is one of prudence rather than of rigid exclusion, and the corresponding provisions of the Bharatiya Sakshya Adhiniyam 2023 carry it forward substantially unchanged.

Prelims answer key: 1-B 2-A 3-D 4-B 5-C 6-C 7-D 8-C 9-A 10-D

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