

Weekly Legal Current Affairs

5–11 October 2026

This week at a glance

- POCSO conviction set aside: victim could not identify the accused, the FIR omitted the 'last seen' story, and the key teacher was never examined.
- A widow's limited estate became absolute under Section 14 HSA, so her Delhi Bhumidhari holding goes to her own sons, not reversioners.
- In-laws dragged into a dowry FIR walk free: without specific overt acts and independent material, a 498A chargesheet against relatives gets quashed under Section 482.
- A Korean licensor's 'mother agreement' with a Seoul arbitration clause cannot stop a Section 11 reference under the Mumbai clauses in the JVA and MoU

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Judgments of the week

1. Charming Rupon v. State of Meghalaya Evidence

2026 INSC 1102 · Vikram Nath, Sandeep Mehta · 9 October 2026

Facts. The appellant was convicted under Section 6 of the POCSO Act for sexually assaulting an 11-year-old girl with 40% intellectual disability, and the Meghalaya High Court affirmed the conviction. The FIR came nearly ten days after the incident, only after the child told her school teacher, who was never examined. At trial both the victim (PW-4) and her cousin (PW-2) failed to identify the appellant and said his name had been supplied by the mother (PW-1).

Issue. Can a conviction stand where the prosecution witnesses fail to identify the accused in court, the 'last seen' circumstance surfaces only at trial, and a material witness is withheld without explanation? Does Section 106 of the Evidence Act shift the burden on such facts?

Held. Relying on Ram Kumar Pandey v. State of M.P., the Court held that omission from the FIR of important facts affecting the probabilities of the case is relevant under Section 11 of the Evidence Act, and that a material improvement at trial calls for closer scrutiny, as in Amar Nath Jha v. Nand Kishore Singh. Section 106 could not be invoked because PW-1 only saw the appellant plucking mulberry leaves in the garden, never with the victim, so no 'last seen together' circumstance was proved. Following Takhaji Hiraji v. Thakore Kubersing Chamansing, the unexplained non-examination of the teacher, whose disclosure triggered the FIR, justified an adverse inference against the prosecution. The testimony of the medical witnesses (PW-3 and PW-8) could not be read in evidence because the defence was denied an effective opportunity to cross-examine them.

Why it matters. *Section 106 comes into play only after the prosecution proves the foundational facts; a sighting near the house is not 'last seen together' with the victim.*

Provisions: Protection of Children from Sexual Offences Act 2012, s.6; Indian Evidence Act 1872, s.106; Indian Evidence Act 1872, s.11; Code of Criminal Procedure 1973, s.164; Code of Criminal Procedure 1973, s.313

2. Sultan Singh (Dead) through LRs v. The Financial Commissioner, Government of NCT of Delhi Family Law

2026 INSC 1107 · S.V.N. Bhatti, N.V. Anjaria · 9 October 2026

Facts. Khajano inherited a limited estate in a 45-bigha holding from her son (her husband having predeceased him) under the Hindu Women's Right to Property Act, 1937, and was declared a Bhumidhar under Section 11 of the Delhi Land Reforms Act, 1954. She died in 1973 and revenue authorities mutated the land in favour of her two sons from her second marriage. The reversioners (male lineal descendants of her first husband's family) claimed the holding under Section 51(2)(a)(i) read with Section 50; a Single Judge agreed, but the Division Bench reversed him.

Issue. Under Section 51(2) of the Delhi Land Reforms Act, 1954, is the 'personal law applicable to her' the law as on 20.07.1954 or the law in force on the female Bhumidhar's death, and does a limited estate enlarged by Section 14(1) HSA, 1956 attract Section 51(2)(a)(ii)?

Held. Applying the literal rule, the Court read the past tense 'inherited' in Section 51(2) as fixing the mode of acquisition before the Act, while the present tense 'dies' fixes the trigger point; the nature of her right is tested on the date of death, so personal law is not frozen at 20.07.1954. Following *Bajaya v. Gopikabai* (1978) 2 SCC 542, 'personal law' is a general referential incorporation that picks up later changes, including the HSA, 1956. The words 'by inheritance ... or in any other manner whatsoever' in the Explanation to Section 14(1) enlarged Khajano's limited estate into full ownership from 17.06.1956, shifting succession from Section 50 to Section 53; had she died between 20.07.1954 and 17.06.1956, Section 51(2)(a)(i) would have applied. *Ram Jivan v. Smt Phoola* (AIR 1976 SC 844) was distinguished, and the appeal was dismissed.

Why it matters. *Pair with V. Tulasamma v. Sesha Reddy (1977) 3 SCC 99: Section 14(1) reaches even a Bhumidhari holding unless the case falls within Section 14(2).*

Provisions: Delhi Land Reforms Act 1954, s.51(2); Delhi Land Reforms Act 1954, s.50; Delhi Land Reforms Act 1954, s.53; Delhi Land Reforms Act 1954, s.5; Delhi Land Reforms Act 1954, s.11; Hindu Succession Act 1956, s.14; Hindu Women's Right to Property Act 1937

3. Prasanta Kumar Dhar v. State of West Bengal Criminal Procedure

2026 INSC 1087 · Nongmeikapam Kotiswar Singh, N.V. Anjaria · 5 October 2026

Facts. The complainant's father-in-law and mother-in-law were charge-sheeted with her husband under Sections 498A, 406, 506 and 323 IPC and Sections 3 and 4 of the Dowry Prohibition Act, 1961, on allegations of dowry demands (Rs. 5 lakhs and a four-wheeler), taunts after the birth of a girl child, and a forced signature on a streedhan-receipt declaration. The Calcutta High Court, in a Section 482 Cr.P.C. petition, quashed only the Section 323 IPC charge and left the rest for trial. The in-laws appealed; the husband was not a party.

Issue. Whether proceedings under Sections 498A, 406 and 506 IPC and Sections 3 and 4 of the DP Act should continue against the husband's parents when the complaint and chargesheet contain only general allegations with no independent supporting material.

Held. Applying *State of Haryana v. Bhajan Lal*, 1992 Supp (1) SCC 335, together with *Arti Mehta v. State of Madhya Pradesh*, 2026 SCC OnLine SC 933, and *Geddamm Jhansi v. State of Telangana*, 2025 SCC OnLine SC 263, the Court tested each offence separately. For Section 498A it found no material of grave injury or harassment for property; for the DP Act charges no particulars, occasions or independent witnesses of the dowry demands; for Section 406 no specifics of property entrusted or misappropriated; and for Section 506 nothing beyond the complainant's word and her parents' Section 161 Cr.P.C. statements. Holding that the High Court ought to have quashed the entire proceedings against the appellants, the Court set aside its order and quashed all proceedings arising out of FIR No. 152/2023 against the in-laws, leaving the specific allegations against the husband untouched.

Why it matters. *Run each offence's ingredients against the chargesheet one by one, as the Court did here; Bhajan Lal sets the categories, Geddamm Jhansi supplies the caution against criminalising family disputes.*

Provisions: Indian Penal Code 1860, s.498A; Indian Penal Code 1860, s.405; Indian Penal Code 1860, s.406; Indian Penal Code 1860, s.503; Indian Penal Code 1860, s.506; Dowry Prohibition Act 1961, s.3; Dowry Prohibition Act 1961, s.4; Code of Criminal Procedure 1973, s.482; Code of Criminal Procedure 1973, s.161

4. Shubham Equipment Private Limited v. Rothwell Water Company Limited Arbitration

2026 INSC 1098 · Surya Kant CJI, Joymalya Bagchi, V. Mohana · 8 October 2026

Facts. SEPL and Korean company RWCL signed a 2019 Licence Agreement providing for arbitration in Seoul under Korean law, then a 2021 Joint Venture Agreement (Article 43, arbitration in Mumbai) and a 2023 MoU (Clause 9, seat Mumbai). After SEPL terminated the JVA, alleging that RWCL had floated a subsidiary, RBIPL, to compete with the joint venture, and claimed dues under the MoU, it filed Section 11 petitions. RWCL argued that the Licence Agreement was the mother agreement whose Seoul clause prevailed, and that RBIPL, as a non-signatory, was not bound.

Issue. Can a referral court decline to appoint an arbitrator under subsidiary agreements because a related 'mother agreement' provides for foreign-seated arbitration? Should a non-signatory subsidiary's joinder be decided at the Section 11 stage?

Held. Section 11(6-A) of the 1996 Act confines the referral court to the prima facie existence of an arbitration agreement, following *In re: Interplay Between Arbitration Agreements under the Arbitration and Conciliation Act, 1996 and the Indian Stamp Act, 1899*, (2024) 6 SCC 1. The Licence Agreement, JVA and MoU prima facie operate in different fields, and Article 25 of the JVA and Clause 10.8 of the MoU (entire-agreement and supersession clauses) confirm that disputes arising exclusively under the JVA and MoU go to their own dispute resolution clauses. Whether those disputes overlap with Licence Agreement claims already referred to arbitration in Korea goes to the scope of the arbitrator's jurisdiction and is no ground to refuse reference at the threshold. Whether RBIPL, a wholly owned subsidiary of signatory RWCL allegedly incorporated in breach of the JVA, is bound was left to the arbitrator, and Justice Ramesh Deokinandan Dhanuka was appointed sole arbitrator.

Why it matters. At the Section 11 stage, check only whether an arbitration agreement prima facie exists, then refer; overlapping contracts and non-signatory joinder go to the tribunal (*Interplay*, (2024) 6 SCC 1)

Provisions: Arbitration and Conciliation Act 1996, s.11; Arbitration and Conciliation Act 1996, s.11(6-A)

In brief — also on the docket this week

5 **Abhishek v. State of Rajasthan** Criminal Law

2026 INSC 1093 · Aravind Kumar, Vipul M. Pancholi · 7 October 2026

Issue. Can a High Court, at the stage of framing charge, set aside a s.307 IPC charge and substitute s.308 merely because the injuries were on non-vital parts of the body?

Held. Following *State of Maharashtra v. Balram Bama Patil*, *State of M.P. v. Saleem alias Chamaru and Jage Ram v. State of Haryana*, the Court held that s.307 IPC does not require a fatal injury; intention or knowledge is deduced from the weapons used, persistence of the assault, prior animosity and manner of attack, and *Surender Kumar v. State of Haryana* confirms that injury on a non-vital part does not exclude the section. Under ss.227 and 228 CrPC the court only examines whether the material discloses a prima facie case and raises suspicion, without weighing evidence as in a full trial. The material here (tractor driven at the family, axe blows aimed at the heads and taken on raised arms, bone-deep wounds) justified the s.307 charge, and the High Court's summary assessment of injury sites was an error. It also overlooked s.216 CrPC, which lets the trial court alter the charge to s.308 or a lesser offence if the evidence later falls short.

6 **Ramkrushna Prahlad Dongardive v. State of Maharashtra** Criminal Law

2026 INSC 1099 · Ujjal Bhuyan, Atul S. Chandurkar · 8 October 2026

Issue. Could the High Court reverse the acquittal when entrustment and dishonest intention rested on unproduced records and a seizure the panch witnesses did not support? Must an appellate court that convicts for the first time hear the accused on sentence?

Held. Relying on *R. Venkatakrishnan v. CBI and Chelloor Mankkal Narayan Ittiravi Nambudiri v. State of Travancore-Cochin*, the Court held that s.405 requires proof of entrustment and dishonest misappropriation, and the trial Court rightly drew an adverse inference under s.114(g) of the Evidence Act against the department for withholding its records. Breach of ss.100(4) and 100(7) CrPC does not by itself vitiate a seizure (*Sunder Singh v. State of U.P.*; *State of Punjab v. Balbir Singh*), but with both panch witnesses hostile the seizure could not rest on the IO's uncorroborated testimony. Citing *Rabindra Kumar Dey v. State of Orissa*, it held that the High Court wrongly shifted the burden to the accused, since the prosecution's onus never shifts. Following *Mukesh Kumar Yadav v. State (UT of Andaman & Nicobar Islands)*, it also noted that an appellate court convicting for the first time under s.386(a) CrPC must hear the convict on sentence.

7 **Ajit Kumar v. State of Jharkhand** Criminal Law

2026 INSC 1084 · Ujjal Bhuyan, Atul S. Chandurkar · 5 October 2026

Issue. Can a conviction under Sections 7 and 13 of the Prevention of Corruption Act, 1988 rest on recovery of tainted money and a positive phenolphthalein test when demand and acceptance are spoken to only by the complainant's uncorroborated testimony?

Held. No witness saw the appellant demand the bribe or PW-1 hand it over; the trap team's accounts conflicted on where he was apprehended, and two office witnesses said they signed the seizure list on the vigilance officials' direction. Applying *P. Satyanarayana Murthy v. State of A.P.* (2015) 10 SCC 152, the Constitution Bench in *Neeraj Dutta v. State (Government of NCT of Delhi)* (2023) 4 SCC 731, *Aman Bhatia v. State* 2025 SCC OnLine SC 1013 and *Jaswinder Singh v. State of Punjab* 2026 SCC OnLine SC 1952, the Court held that mere recovery of tainted money, without proof of demand, does not establish an offence under Sections 7 and 13(1)(d). The judgments of the Special Judge and the High Court were set aside and the appellant declared cleared of the charges, even though he had served his sentence.

8 **Santosh B. Naik v. State of Goa** Service / Admin

2026 INSC 1089 · Aravind Kumar, Vipul M. Pancholi · 6 October 2026

Issue. Does a Secondary School Certificate obtained through NIOS satisfy a recruitment rule requiring a candidate to have 'passed 10th standard under 10+2 system of education', when the rules contain no equivalence clause?

Held. Qualifications must be satisfied in the manner prescribed; courts in judicial review cannot add to or alter them, and equivalence is for the employer or expert body (*Zahoor Ahmad Rather v. Sheikh Imtiyaz Ahmad, Unnikrishnan C.V. v. Union of India, Shifana P.S. v. State of Kerala, Maharashtra Public Service Commission v. Sandeep Shriram Warade*). Reading text with context per *Reserve Bank of India v. Peerless General Finance*, the Court held general recognition of NIOS by the Goa Board cannot amend or enlarge a post-specific eligibility condition, and the Department's consistent reading since 2015 supported this. Comparative merit arises only among eligible candidates, so marks cannot cure a missing essential qualification. The High Court's order and Respondent No. 3's appointment were set aside and the appellant's selection restored, with the holding confined to these Rules and this advertisement.

9 Federation of Medical Sales Representatives Association of India v. Union of India Constitution

2026 INSC 1097 · Vikram Nath, Sandeep Mehta · 8 October 2026

Issue. Whether the Supreme Court should give binding force to the pharmaceutical marketing code or frame its own guidelines under Articles 32, 141, 142 and 144, or limit itself to facilitating the executive's policy exercise.

Held. The Court found that the existing framework had not proved entirely effective, observing that efficacy is judged by implementation and enforcement, not merely by the existence of norms. Mindful of separation of powers, it held that the choice of statutory framework and enforcement mechanism lies primarily with the Union, yet judicial restraint does not mean indifference where public health and the right to health are at stake. Exercising powers under Articles 32 and 142 in furtherance of Article 21, it directed the Union to constitute its proposed committee within two weeks, hear the petitioners, intervenors and other stakeholders, and report within two months of its first meeting, after which the Union must take a reasoned decision and file a compliance affidavit. UCPMP, 2024 continues to govern meanwhile, and the matter is listed part-heard on 29 January 2027.

10 Modern Asset v. KNK Construction Private Limited Company / IBC

2026 INSC 1103 · J.B. Pardiwala, K. Vinod Chandran · 8 October 2026

Issue. Can an SRA pursue pre-CIRP dues of the corporate debtor in arbitration against an operational creditor whose own claim on the same contract stood extinguished by the approved resolution plan, and if so, can that creditor set up its extinguished claim in defence?

Held. The clean slate principle under Section 31(1) of the IBC, reinforced by Section 31(6), applies against the SRA while the SRA may still proceed for dues of the CD, so the High Court erred in leaving that question to the arbitrator. Following *Ujaas Energy Ltd. v. West Bengal Power Development Corporation Ltd.* (2026 SCC OnLine SC 453) and *Ghanashyam Mishra Sons (P) Ltd.*, the Court held that the SRA, by offering 0.72% in its own plan, is deemed to have accepted the appellant's claim in toto. The arbitral tribunal must therefore allow set-off to the extent of the entire claim lodged before the RP, but even if the respondent's claim fails, the appellant cannot recover anything since its claim stands extinguished against the CD and the SRA. Limitation was within time, excluding the moratorium period from 11.12.2019 to 05.04.2022.

11 V. Pon. Paneerselvam v. S. Regupathy General

2026 INSC 1092 · Prashant Kumar Mishra, Shree Chandrashekhar · 7 October 2026

Issue. Is presentation of an election petition by the petitioner himself a mandatory requirement of Section 81 of the Representation of the People Act, 1951, and does non-compliance attract dismissal at the threshold under Section 86(1)?

Held. Following *G.V. Sreerama Reddy v. Returning Officer*, (2009) 8 SCC 736, the Court held that presentation "by" the petitioner is one of five specific requirements of Section 81(1), and since Section 86(1) mandates dismissal for non-compliance, the defect is not curable. The 1966 amendment omitted old Section 81(2), which had allowed presentation through a person authorised in writing or by registered post, so those modes no longer exist. Applying *Jamal Uddin Ahmad v. Abu Saleh Najmuddin*, (2003) 4 SCC 257, Rule 7 of the Madras High Court Election Petitions Rules, 1967 was held to be a valid incident of the High Court's jurisdiction that does not run counter to Section 81. *Dr. Vijay Laxmi Sadho v. Jagdish*, (2001) 2 SCC 247 was distinguished as it concerned a requirement found only in High Court rules and a Section 83 defect, which falls outside Section 86(1).

12 M. Prema v. State of Tamil Nadu Service / Admin

2026 INSC 1105 · S.V.N. Bhatti, Shree Chandrashekhar · 9 October 2026

Issue. Whether temporary (Rule 10(a)(i)) and compassionate appointees can claim seniority over regularly selected Direct recruits on the basis of their initial date of appointment, and how seniority between the two non-regular classes is to be fixed.

Held. The G.O. dated 14 September 1984 is an Executive Order under Article 162 which can supplement but not operate against the Rules; compassionate appointment is not a mode of recruitment under Rule 6 and is an exception to Articles 14 and 16, so such appointees cannot be placed above the Direct recruits of 1983 batch. Clause 10 of the Special Absorption Rules was upheld, since Rule 10(a)(i) appointees came into service only on regularisation (*State of Tamil Nadu v. E. Paripoornam; M.P. Palanisamy v. A. Krishnan*) and Clause 3 gives those Rules overriding

effect. Following *Direct Recruit Class II Engineering Officers' Association v. State of Maharashtra*, ad hoc or stopgap service cannot count for seniority over Direct recruits, though it may count for pension where rules allow (*State of Himachal Pradesh v. Sheela Devi*). Except where Recruitment Rules prescribe a method, seniority of temporary, ad hoc or compassionate appointees is counted from regularisation.

Statutes, appointments & policy

NEW LAWS, AMENDMENTS & KEY BILLS

- **CAPF (General Administration) Act, 2026 brought into force from 8 October.** The Ministry of Home Affairs notified 8 October 2026 as the commencement date of the Central Armed Police Forces (General Administration) Act, 2026, passed by Parliament in April 2026. The Act gives a statutory basis to recruitment, promotion, deputation and service conditions in the CRPF, BSF, CISF, ITBP and SSB, which earlier rested on executive orders. It fixes IPS deputation quotas of 50% of Inspector General posts, at least 67% of Additional Director General posts and all Special DG and DG posts. The notification came while petitions by CAPF cadre officers, including a contempt petition seeking implementation of the Supreme Court's May 2025 judgment on reducing IPS deputation, remain before the Supreme Court. — [8 October 2026 · tribuneindia.com](#)

APPOINTMENTS & INSTITUTIONS

- **Judges of the Supreme Court (Article 124(2)):** Justices Sunita Agarwal, Devendra Kumar Upadhyaya and Aparesh Kumar Singh — The Centre notified on 5 October 2026 the appointment of the Chief Justices of the Gujarat (Sunita Agarwal), Delhi (D.K. Upadhyaya) and Telangana (Aparesh Kumar Singh) High Courts as Supreme Court judges, acting on the Collegium recommendation of 28 September 2026. With Justice Agarwal, the number of women judges on the Supreme Court rose to three. Supreme Court judges are appointed by the President under Article 124(2) after consultation with the Chief Justice of India. — [5 October 2026 · livelaw.in](#)
- **Acting Chief Justices of High Courts (Article 223):** Justices Nitin W. Sambre (Delhi), Manash Ranjan Pathak (Gujarat), P. Sam Koshy (Telangana) — Following the elevation of the three Chief Justices, the President by separate notifications dated 5 October 2026 under Article 223 appointed sitting judges to perform the duties of Chief Justice from the date the outgoing Chief Justices relinquished office: Justice Nitin Wasudeo Sambre for the Delhi High Court, Justice Manash Ranjan Pathak for the Gujarat High Court and Justice Puthichira Sam Koshy for the Telangana High Court. Justice Sambre assumed charge on 6 October 2026. Article 223 applies when the office of Chief Justice of a High Court is vacant. — [5 October 2026 · verdictum.in](#)
- **Additional Judge, Delhi High Court (Article 224(1)):** Judicial officer Gurvinder Pal Singh — The Centre notified on 5 October 2026 the appointment of judicial officer Gurvinder Pal Singh as an Additional Judge of the Delhi High Court under Article 224(1), with a term up to 25 June 2028. He was the only one of eight judicial officers recommended by the Supreme Court Collegium on 10 September 2026 whose appointment was not notified with the other seven on 19 September. Acting Chief Justice Nitin Wasudeo Sambre administered his oath on 7 October 2026. — [5 October 2026 · livelaw.in](#)

POLICY & JUSTICE ADMINISTRATION

- **Supreme Court constitutes Standing Committee on Judicial Well-being.** On World Mental Health Day, CJI Surya Kant constituted a Standing Committee on Judicial Well-being chaired by Justice K.V. Viswanathan, with psychiatrist Dr. Savita Malhotra, psychologist Rajat Mitra, Advocate-on-Record Mrinal Kanwar and Registrar (J) Aarti Singh of the Centre for Research and Planning as members. It is meant to be a continuing institutional mechanism to identify well-being concerns of judicial officers, coordinate welfare measures, formulate guidance and periodically review initiatives. It follows a Centre for Research and Planning study on district judiciary officers that examined occupational stress, workload, staff shortages, infrastructure, transfers and work-life balance. — [10 October 2026 · scconline.com](#)

Clear Concepts — textbook revision of two core concepts**Section 14 HSA: From Limited Estate to Absolute Ownership**

Family Law (Hindu Law)

Hindu Succession Act 1956, s.14(1), Explanation and s.14(2)

Before 1956 a widow held inherited property as a limited estate, alienable only for legal necessity and reverting to reversioners on her death. Section 14(1) made her full owner of whatever she possessed. This week *Sultan Singh* (2026 INSC 1107) held a widow's limited estate absolute from 17.06.1956, so her Delhi Bhumidhari land went to her sons, not reversioners.

Section 14(1) and the Explanation.

- Any property possessed by a female Hindu, acquired before or after the Act, is held by her as full owner.
- The Explanation lists inheritance, devise, partition, maintenance or arrears, gift, own exertion, purchase, prescription and pre-Act stridhana.
- The residuary words 'or in any other manner whatsoever' make the list illustrative, catching every mode of acquisition.
- Being ameliorative legislation, s.14(1) is construed liberally to erase Shastric disabilities on a woman's ownership.

The s.14(2) exception and the pre-existing right test.

- Section 14(2) excludes property taken under a gift, will, instrument, decree, order or award prescribing a restricted estate.
- Section 14(2) is a proviso, read strictly, so it never swallows the broad protection of s.14(1).
- Ask whether the instrument creates a new title (s.14(2)) or merely recognises a pre-existing right (s.14(1)).
- A widow's maintenance claim is a pre-existing right, so property allotted for maintenance becomes absolute despite restrictions.

Possession, timing and succession consequences.

- 'Possessed' is broad: actual or constructive possession suffices, but a rank trespasser without title gains nothing.
- A limited estate held on 17.06.1956 enlarged that day; later maintenance grants enlarge once possession is given.
- Once the estate is absolute, the reversioners' hope dies and the property passes to the woman's own heirs.
- *Sultan Singh* read 'personal law' in s.51(2) Delhi Land Reforms Act as a general reference (*Bajaya v. Gopikabai*), importing s.14(1).

Leading cases.

- *V. Tulasamma v. Sesha Reddy* (1977) — property in lieu of maintenance recognises a pre-existing right; s.14(1) applies, not s.14(2).
- *Mangal Singh v. Rattno* (1967) — actual possession unnecessary if the widow retains title to recover it.
- *Sadhu Singh v. Gurdwara Sahib Narike* (2006) — a will's life estate, with no pre-existing right, falls under s.14(2).
- *Jupudy Pardha Sarathy v. Pentapati Rama Krishna* (2016) — a will's life estate in lieu of maintenance enlarges under s.14(1).
- *Sultan Singh v. Financial Commissioner, GNCTD* (2026) — widow's estate absolute from 17.06.1956; succession follows s.53, not s.50.

Exam tip. A will giving a widow a life estate is not automatically s.14(2); if it recognises maintenance, s.14(1) enlarges it.

Section 106 Evidence Act / s.109 BSA: Facts Especially Within Knowledge

Evidence

Indian Evidence Act 1872, ss.101–106, 114(g) / BSA 2023, ss.104–109, 119

Section 101 IEA (s.104 BSA) burdens whoever asserts a fact, in criminal trials the prosecution. Section 106 IEA (s.109 BSA) is a narrow exception for facts especially within one person's knowledge, never a licence to skip proof. This week, *Charming Rupon v. State of Meghalaya* refused s.106 because no 'last seen together' was proved.

What s.106 does and does not do.

- Sections 101–103 IEA (ss.104–106 BSA) burden the party asserting a fact; the prosecution must prove guilt beyond reasonable doubt.
- Section 106 IEA (s.109 BSA): a fact especially within any person's knowledge must be proved by him.
- Illustrations: one claiming an intention other than the act suggests must prove it; a ticketless passenger must prove his ticket.
- 'Especially' means pre-eminently or exceptionally within knowledge; facts others can equally know fall outside s.106.

Last seen together and the duty to explain.

- Once the accused is proved last seen with the deceased, how they parted is especially within his knowledge.
- Last seen needs close proximity of time between sighting and death, making any other author improbable.
- A wife's death at night inside the matrimonial home obliges the husband to explain how she died.
- In *Charming Rupon*, the accused was seen plucking mulberry leaves in the garden, never with the victim: no last seen.

Limits, adverse inference and common errors.

- Section 106 operates only after the prosecution proves foundational facts; it never shifts the primary burden onto the accused.
- Silence or a false explanation is an additional link only when the chain is otherwise complete (*Sharad Birdhichand Sarda*).
- Under s.114 illustration (g) IEA (s.119 BSA), withheld evidence may be presumed unfavourable to the party withholding it.
- Common error: treating any sighting near the scene as last seen, or using s.106 to plug prosecution gaps.

Leading cases.

- *Shambhu Nath Mehra v. State of Ajmer* AIR 1956 SC 404 — s.106 does not shift the prosecution's burden.
- *Trimukh Maroti Kirkan v. State of Maharashtra* (2006) 10 SCC 681 — husband must explain wife's night death at home.
- *State of Rajasthan v. Kashi Ram* (2006) 12 SCC 254 — unexplained last seen adds a link.
- *Nagendra Sah v. State of Bihar* (2021) 10 SCC 725 — s.106 needs proved facts permitting reasonable inference.
- *Charming Rupon v. State of Meghalaya* 2026 INSC 1102 — no last seen, no s.106; FIR omission relevant under s.11 IEA; withheld teacher, adverse inference.

Exam tip. The trap: s.106 shifting the burden to the accused; it only adds a link once foundational facts are proved.

Revision capsule — one-line recap of every ruling

- **Charming Rupon:** Where the victim and the eyewitness cannot identify the accused, the FIR omits the incriminating 'last seen' fact, and a material witness is withheld without explanation, the conviction is unsafe and the accused gets the benefit of doubt.
- **Sultan Singh (Dead) through LRs:** 'Personal law' in Section 51(2) of the Delhi Land Reforms Act, 1954 is a general reference read as on the date of the female Bhumidhar's death; a widow whose limited estate became absolute under Section 14(1) HSA, 1956 holds 'absolutely', so succession follows the Section 53 table.
- **Prasanta Kumar Dhar:** Relatives of the husband cannot be put to criminal trial on vague, omnibus matrimonial allegations; where neither the complaint nor the investigation attributes a specific overt act backed by independent material, the proceedings must be quashed under Section 482 of the Code of Criminal Procedure.
- **Shubham Equipment Private Limited:** Where the arbitration agreements are admitted, the Section 11 court must refer — overlap with a mother agreement's foreign arbitration clause and the joinder of a non-signatory subsidiary are questions for the arbitrator.
- **Abhishek:** The site of injury on a non-vital part does not by itself exclude s.307 IPC; intention or knowledge, read from the totality of circumstances, decides the charge, and a High Court should not run a mini-trial at the charge stage.
- **Ramkrushna Prahlad Dongardive:** Entrustment & dishonest intention are both essential to criminal breach of trust; where the complainant withholds the cashbook & registers and the seizure rests on the IO's word alone, the charge fails and the acquittal must be restored.
- **Ajit Kumar:** Proof of demand and acceptance of illegal gratification is the sine qua non of an offence under Sections 7 and 13 of the PC Act; recovery of tainted notes, backed only by the complainant's uncorroborated word, cannot sustain a conviction.

- **Santosh B. Naik:** The words 'under 10+2 system of education' are an integral part of the qualification, so absent an equivalence provision in the Rules an NIOS Secondary certificate does not satisfy it and the High Court could not read equivalence in.
- **Federation of Medical Sales Representatives Association of India:** Regulating pharma marketing is executive policy the Court cannot substitute, but the right to health under Article 21 justifies time-bound Article 32 and 142 directions to make the Union's own committee process consultative and effective.
- **Modern Asset:** An SRA may pursue the corporate debtor's surviving claims against an operational creditor, but where the SRA's plan accepted that creditor's claim on the same contract, the creditor may counterclaim for set-off only, with no affirmative recovery.
- **V. Pon. Paneerselvam:** Presentation "by" the petitioner is a mandatory component of Section 81(1) RP Act; a petition presented only through counsel is incurably defective and must be dismissed under Section 86(1).
- **M. Prema:** Regularly selected Direct recruits rank above compassionate and temporary appointees regardless of earlier initial appointment; inter se seniority between the latter two runs from the date of regularisation.

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

Q1. A Hindu widow inherited a limited estate in agricultural land in 1940 under the Hindu Women's Right to Property Act, 1937. She was in possession of the land on 17 June 1956 and died in 1973. No gift, will, decree or award prescribed any restricted estate in her favour. Which of the following is correct?

- A. She remained a limited owner, so the land reverted to her late husband's reversioners on her death
- B. Her limited estate became absolute under Section 14(1) HSA, so the land devolves on her own heirs
- C. Her estate could become absolute only if she had acquired the land by a partition made after 1956
- D. Her estate could become absolute only if the instrument of acquisition expressly granted full ownership

Ans: B. Section 14(1) of the Hindu Succession Act, 1956 declares that any property possessed by a female Hindu, whether acquired before or after the Act, is held by her as full owner and not as a limited owner. The Explanation covers property acquired by inheritance or devise, at a partition, or "in any other manner whatsoever", and only Section 14(2) (property acquired under a gift, will, instrument, decree, order or award prescribing a restricted estate) is excluded, as V. Tulasamma v. Sesha Reddy (1977) explains. This week the Supreme Court held that such a widow's limited estate became absolute from 17.06.1956, so her Bhumidhari holding passed to her own sons and not to the reversioners. **[This week's ruling: Sultan Singh v. Financial Commissioner, Govt. of NCT of Delhi (2026 INSC 1107)]**

Q2. A 1954 State land law provides that a female landholder's interest shall devolve according to "the personal law applicable to her", without naming any particular enactment. Which of the following correctly states how such a provision operates?

- A. It freezes the personal law as it stood on the date the referring Act came into force
- B. It operates on later changes only if the referring Act expressly saves future amendments
- C. It picks up the personal law as amended from time to time, including later codification
- D. It incorporates only uncodified custom and excludes any later statutory personal law

Ans: C. A general reference to a body of law (referential incorporation) imports that law as it stands from time to time, so later amendments are picked up; this differs from incorporation of specific provisions, which are bodily lifted and frozen as on the date of incorporation (Bajaya v. Gopikabai, 1978). Read with the literal rule, the past tense "inherited" fixes the mode of acquisition while the present tense "dies" fixes the point at which the nature of her right is tested. This week the Court applied Bajaya to hold that "personal law" in Section 51(2) of the Delhi Land Reforms Act, 1954 is read as on the date of the female Bhumidhar's death and so includes the Hindu Succession Act, 1956. **[This week's ruling: Sultan Singh v. Financial Commissioner, Govt. of NCT of Delhi (2026 INSC 1107)]**

Q3. With reference to the inherent power of the High Court to quash criminal proceedings under Section 482 CrPC, consider the following statements: I. The categories laid down in State of Haryana v. Bhajan Lal are illustrative and not exhaustive. II. Proceedings may be quashed where the allegations, even if taken at face value and accepted in their entirety, do not prima facie constitute any offence against the accused. III. At this stage the High Court must weigh the reliability of the prosecution witnesses as it would at the end of a trial. Which of the statements given above is/are correct?

- A. II and III only
- B. I and III only
- C. II only
- D. I and II only

Ans: D. Bhajan Lal (1992) set out its seven categories by way of illustration only, and the first of them covers allegations that, even if taken at face value, disclose no offence; at the quashing stage the court does not appreciate evidence or hold a mini-trial, so Statement III is wrong. Section 482 CrPC corresponds to Section 528 BNSS, 2023, which saves the High Court's inherent powers. This week the Supreme Court applied Bhajan Lal, tested each offence separately, and quashed the entire proceedings against the husband's parents. **[This week's ruling: Prasanta Kumar Dhar v. State of West Bengal (2026 INSC 1087)]**

Q4. A wife's FIR alleges that her in-laws are withholding her streedhan and charges them under Section 406 IPC. Neither the complaint nor the charge-sheet states what property was handed over to the in-laws or how they dealt with it. Which essential ingredient of the offence is missing?

- A. Proof that the property was given as dowry within Section 2 of the Dowry Prohibition Act
- B. Proof of wilful cruelty of a grave nature likely to drive the woman to commit suicide
- C. Proof of entrustment of the property and its dishonest misappropriation or conversion
- D. Proof that the property was kept in a locker operated jointly by the husband's family

Ans: C. Criminal breach of trust under Section 405 IPC requires that the accused was entrusted with property, or with dominion over it, and dishonestly misappropriated, converted, used or disposed of it in violation of law or contract. Section 405 IPC corresponds to Section 316(1) BNS and the punishment under Section 406 IPC to Section 316(2) BNS; cruelty under Section 498A IPC now sits in Sections 85–86 BNS and criminal intimidation under Section 506 IPC in Section 351 BNS. This week the Court quashed the Section 406 charge against the in-laws because the record gave no specifics of any property entrusted to them or misappropriated by them. **[This week's ruling: Prasanta Kumar Dhar v. State of West Bengal (2026 INSC 1087)]**

Q5. Which of the following propositions regarding the First Information Report and the examination of prosecution witnesses is correct?

- A. Omission from the FIR of an important fact affecting the probabilities of the case is relevant under Section 11 of the Evidence Act
- B. An FIR is substantive evidence of the facts it records, and any omission in it is by itself fatal to the prosecution case
- C. The prosecution is bound to examine every witness named in the charge-sheet, whatever their number or importance
- D. Unexplained non-examination of a material witness can never give rise to any adverse inference against the prosecution

Ans: A. An FIR is not substantive evidence, but the omission of important facts from it is relevant under Section 11 of the Indian Evidence Act (Ram Kumar Pandey v. State of M.P.), and a material improvement at trial calls for closer scrutiny. The prosecution need not examine every listed witness, but withholding a material witness without explanation invites an adverse inference under Section 114 illustration (g) (Takhaji Hiraji v. Thakore Kubersing). IEA Section 11 corresponds to Section 9 BSA, 2023 and Section 114 to Section 119 BSA. This week the Court set aside a POCSO conviction where the 'last seen' story was missing from the FIR and the teacher whose disclosure triggered the FIR was never examined. **[This week's ruling: Charming Rupon v. State of Meghalaya (2026 INSC 1102)]**

Q6. In a trial for sexual assault on a child, the only evidence against the accused is that the victim's mother saw him plucking leaves in the garden near the house on the day of the incident; no witness saw him with the victim. The prosecution invokes Section 106 of the Evidence Act. Which of the following is correct?

- A. The accused must explain the incident, as Section 106 shifts the entire burden once he is seen near the house
- B. Section 106 cannot be invoked, as the prosecution has not first proved that he was last seen with the victim
- C. Section 106 can be invoked only if the accused has made a confession recorded under Section 164 CrPC
- D. Section 106 applies, as the accused's failure to offer an explanation is by itself enough to convict him

Ans: B. Section 106 of the Indian Evidence Act (now Section 109 BSA, 2023) places on a person the burden of proving a fact especially within his knowledge, but it does not relieve the prosecution of its primary duty to prove the foundational facts first. A sighting near the house is not a 'last seen together' circumstance, so no explanation can be demanded from the accused on that basis. This week the Supreme Court refused to apply Section 106 on these facts and gave the accused the benefit of doubt. **[This week's ruling: Charming Rupon v. State of Meghalaya (2026 INSC 1102)]**

Q7. Under Section 11(6-A) of the Arbitration and Conciliation Act, 1996, as interpreted by the seven-Judge Bench in In re: Interplay Between Arbitration Agreements and the Indian Stamp Act (2024), the referral court's examination is confined to:

- A. The prima facie existence of an arbitration agreement between the parties
- B. The arbitrability of each claim and whether it is barred by limitation
- C. The adequacy of stamp duty paid on the underlying commercial contract
- D. Whether the disputes overlap with claims under any related agreement

Ans: A. Section 11(6-A) directs the referral court to confine itself to the examination of the existence of an arbitration agreement, and Interplay (2024) 6 SCC 1 holds that this is a prima facie inquiry, with everything else (stamping, arbitrability, scope) left to the tribunal under its competence-competence power in Section 16. This week the Supreme Court applied that test and appointed a sole arbitrator under the arbitration clauses of a JVA and an MoU. **[This week's ruling: Shubham Equipment Pvt. Ltd. v. Rothwell Water Co. Ltd. (2026 INSC 1098)]**

Q8. Company X and foreign Company Y signed a licence agreement with a foreign-seated arbitration clause, and later a joint venture agreement with a Mumbai-seated arbitration clause. In X's Section 11 petition under the JVA, Y argues that the licence agreement is the 'mother agreement' whose clause prevails, and that its non-signatory subsidiary Z cannot be joined. The referral court should:

- A. Refuse reference, since the clause in the mother agreement overrides all later agreements
- B. Decide finally whether Z is bound by the arbitration agreement before appointing anyone
- C. Appoint an arbitrator under the JVA, leaving the overlap and Z's joinder to the tribunal
- D. Keep the petition pending until the foreign-seated arbitration has been fully concluded

Ans: C. Once an arbitration agreement prima facie exists, the Section 11 court must refer; whether the claims overlap with those under another contract goes to the scope of the arbitrator's jurisdiction, and whether a non-signatory is bound is for the tribunal to decide under Section 16. This week the Court held that the licence agreement, JVA and MoU prima facie operated in different fields, and it left both the overlap with the Korean arbitration and the subsidiary's joinder to the arbitrator. **[This week's ruling: Shubham Equipment Pvt. Ltd. v. Rothwell Water Co. Ltd. (2026 INSC 1098)]**

Q9. The accused rammed a tractor towards a family and then attacked them with axes; the blows were aimed at their heads but landed on their raised arms, causing bone-deep incised wounds. The Sessions Judge framed a charge under Section 307 IPC. In revision, the High Court substituted a charge under Section 308 IPC only because the wounds were on non-vital parts. The High Court's approach is:

- A. Correct, because Section 307 requires an injury sufficient in the ordinary course of nature to cause death
- B. Correct, because at the charge stage the court must weigh the medical evidence as at the final hearing
- C. Incorrect, but only because a High Court has no revisional power over an order framing a charge
- D. Incorrect, because Section 307 turns on intention or knowledge, not merely on the site of the injury

Ans: D. Section 307 IPC (now Section 109 BNS) does not require a fatal injury or an injury on a vital part; intention or knowledge is inferred from the weapon, the manner and persistence of the attack and the surrounding circumstances (Section 308 IPC is now Section 110 BNS). At the charge stage under Sections 227/228 CrPC (Sections 250/251 BNSS) the court only asks whether a prima facie case exists, and the trial court can later alter the charge under Section 216 CrPC (Section 239 BNSS) if the evidence falls short. This week the Supreme Court restored the Section 307 charge and faulted the High Court for running a mini-trial on injury sites. [\[This week's ruling: *Abhishek v. State of Rajasthan* \(2026 INSC 1093\)\]](#)

Q10. In a trap case under Sections 7 and 13 of the Prevention of Corruption Act, 1988, tainted notes are recovered from under the accused's pillow and the phenolphthalein test is positive. No witness saw any demand or handover, and the complainant's testimony is uncorroborated. Which of the following is correct?

- A. Conviction must follow, as recovery of tainted notes raises a conclusive presumption of demand
- B. Conviction cannot be sustained, as proof of demand and acceptance is the sine qua non of the offence
- C. Conviction may follow, as a positive phenolphthalein test is substantive proof of the bribe demand
- D. Conviction must follow, as the burden shifts entirely to the accused once he is caught in a trap

Ans: B. Proof of demand and acceptance of illegal gratification is the sine qua non for offences under Sections 7 and 13(1)(d) of the PC Act; mere possession or recovery of currency notes, without proof of demand, does not establish the offence (*P. Satyanarayana Murthy*, 2015). The Constitution Bench in *Neeraj Dutta* (2023) allows demand to be proved by direct or circumstantial evidence, but the presumption under Section 20 arises only after demand and acceptance are proved. This week the Supreme Court set aside a trap-case conviction resting only on recovery and the complainant's uncorroborated word. [\[This week's ruling: *Ajit Kumar v. State of Jharkhand* \(2026 INSC 1084\)\]](#)

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

Mains Q1. — Haryana Civil Service (Judicial Branch) Mains, 2011 · Criminal Law — Attempt and attempt to murder (ss.307, 511 IPC / ss.109, 62 BNS)

Jagat Singh gave orders to a press to print 100 forms similar to those formerly used by a Coal Company. He had corrected the first proof and also suggested further corrections in the second proof in order to make it appear exactly like the form used by the Coal Company. At this stage Jagat Singh was arrested and charged with the offence of having attempted to make a false document. Decide and give reasons.

Jagat Singh is not guilty of attempting to make a false document. What he did was preparation, and preparation is not an offence here. A crime passes through four stages: intention, preparation, attempt and commission. The law does not punish bare intention, and it generally leaves preparation alone because preparatory acts are ambiguous and the actor can still change his mind. The exceptions are grave offences, such as collecting arms to wage war (s.122 IPC, now s.149 BNS) and preparing for dacoity (s.399 IPC, now s.310(4) BNS). Section 511 IPC, now s.62 BNS, punishes an attempt to commit an offence punishable with imprisonment, with up to half the longest term provided for that offence.

Neither code defines attempt, so courts use three tests. Proximity asks how close the act came to the completed offence. Locus poenitentiae asks whether the accused could still have turned back. Equivocality asks whether the act unmistakably points to the crime. In *Abhayanand Mishra v. State of Bihar* AIR 1961 SC 1698, the Supreme Court held that attempt begins where preparation ends. The act need not be the penultimate one, but it must be done in the course of committing the offence. In *Malkiat Singh v. State of Punjab* (1969) 1 SCC 157, a paddy truck stopped short of the Punjab–Delhi boundary was held to be mere preparation, as the accused could still turn back.

Now apply them. Under s.464 IPC (s.335 BNS), a person "makes" a false document by signing, sealing or executing it with the intent described in s.463 (s.336 BNS). Printing blank forms is none of these. In *Riasat Ali* (1881) ILR 7 Cal 352, the Calcutta High Court decided these very facts. It held that a document is false because it is signed or sealed in another's name, so correcting proofs of unsigned forms was preparation. Jagat Singh's forms bore no name or signature, and a blank form can still be used innocently. He kept a full locus poenitentiae. The charge under s.511 read with s.465 IPC fails, and he must be acquitted. Had he begun to sign or fill in a form in the Company's name, the answer would change.

Section 307 IPC, now s.109 BNS, shifts the inquiry from act to mind. It requires an act done with the intention or knowledge that, if it caused death, would amount to murder under s.300 (s.101 BNS). Actual hurt is not necessary. In *Om Prakash v. State of Punjab* AIR 1961 SC 1782, a husband who deliberately starved his wife was convicted under s.307 although he never struck her. In *State of Maharashtra v. Balram Bama Patil* (1983) 2 SCC 28, the Court held that the section does not require an injury capable of causing death. *State of M.P. v. Saleem alias Chamaru* (2005) 5 SCC 554 and *Jage Ram v. State of Haryana* (2015) 11 SCC 366 read intention from the weapon, the manner of attack and the circumstances, and treat the injury as only one indicator.

This week, in *Abhishek v. State of Rajasthan*, 2026 INSC 1093, the Supreme Court reversed a High Court that had replaced s.307 with s.308 (s.110 BNS) because the axe wounds were on the arms. The Court held that intention is judged from the totality of the circumstances, not from where the injury landed. It also held that a court framing charges must not hold a mini-trial, because s.216 CrPC (s.239 BNSS) lets the trial

court alter the charge later. For Jagat Singh too, every attempt is judged by what the act reveals about intent, and his corrected proofs reveal too little.

Mains Q2. — Goa Civil Judge (Junior Division) Main/Written Examination, 2016 · Criminal Law — s.498A IPC (ss.85-86 BNS) cruelty by husband and in-laws, DV Act, and quashing of omnibus allegations under s.482 CrPC / s.528 BNSS

Discuss the provisions regarding to Cruelty to a woman by her husband and in laws with special reference to Domestic Violence Act?

Section 498A IPC, now split into ss.85 and 86 of the BNS, punishes the husband or any relative of the husband who subjects a married woman to cruelty, with imprisonment up to three years and fine. Cruelty has two limbs: wilful conduct likely to drive her to suicide or to cause grave injury or danger to her life, limb or health, mental or physical; and harassment aimed at coercing her or her relatives to meet an unlawful demand for property or valuable security, or on account of failure to meet such a demand. The offence is cognizable and non-bailable, and s.198A CrPC confines cognizance to a police report or a complaint by the woman or specified relatives.

The Protection of Women from Domestic Violence Act, 2005 adds a civil track. Domestic violence under s.3 covers physical, sexual, verbal, emotional and economic abuse, including harassment for dowry. The aggrieved wife may proceed under s.12 against the husband and, by the proviso to s.2(q), his relatives; *Hiral P. Harsora v. Kusum Narottamdas Harsora* (2016) 10 SCC 165 struck down the words "adult male", so female in-laws are equally answerable. The Magistrate may grant protection, residence, monetary, custody and compensation orders under ss.18 to 22, and s.36 makes the Act additional to, not in derogation of, other laws.

Because relatives are named in the section, complaints routinely sweep in the entire family. *Preeti Gupta v. State of Jharkhand* (2010) 7 SCC 667 warned against exaggerated complaints implicating the husband's relatives, and *Kahkashan Kausar v. State of Bihar* (2022) 6 SCC 599 held that general, omnibus allegations against in-laws, attributing no specific role, cannot justify putting them to trial. *Arnesh Kumar v. State of Bihar* (2014) 8 SCC 273 ended reflexive arrests: police must record reasons under the s.41 CrPC checklist, Magistrates must scrutinise them before authorising detention, and a notice of appearance is the norm, a scheme now carried into s.35 BNSS.

The corrective lies in s.482 CrPC, now s.528 BNSS, which saves the High Court's inherent power to give effect to orders under the Code, prevent abuse of process and secure the ends of justice. *R.P. Kapur v. State of Punjab* AIR 1960 SC 866 laid the foundation, and *State of Haryana v. Bhajan Lal* 1992 Supp (1) SCC 335 listed seven illustrative categories: allegations that, taken at face value, disclose no offence; allegations disclosing no cognizable offence to justify police investigation without a Magistrate's order; uncontroverted allegations and evidence that disclose no offence; allegations amounting only to a non-cognizable offence; allegations so absurd and inherently improbable that no prudent person could find sufficient ground; an express legal bar to institution or continuance; and proceedings manifestly mala fide or instituted to wreak vengeance. The power is used sparingly and without a mini-trial. *Neeharika Infrastructure v. State of Maharashtra* (2021) 19 SCC 401 calls quashing the exception and bars blanket "no coercive steps" orders, while *Gian Singh v. State of Punjab* (2012) 10 SCC 303 permits quashing on settlement for offences of a private or matrimonial nature, never heinous ones.

This week, in *Prasanta Kumar Dhar v. State of West Bengal*, 2026 INSC 1087, the Supreme Court applied *Bhajan Lal* offence by offence and quashed all proceedings under ss.498A, 406 and 506 IPC and the Dowry Prohibition Act against the parents-in-law for want of any specific overt act or independent material, leaving the case against the husband intact. The answer, then, is balance: s.498A and the 2005 Act shield the wife, and s.482 ensures that shield is not turned into a weapon against relatives on vague accusation.

Mains Q3. — Jharkhand Civil Judge (Junior Division) Mains, 2019 · Arbitration — Essentials of an arbitration agreement and the referral court's limited role (ss.7, 8, 11, 16)

"If a clause in an agreement between the parties clearly shows their intention that any dispute arising between them shall be decided by a particular person, then it is an 'arbitration clause' irrespective of the fact that the words 'arbitrator' or 'arbitration' have not been used therein." Amplify the above statement in the light of essential elements of an arbitration agreement.

The statement is correct and reflects the substance-over-form approach of the Arbitration and Conciliation Act, 1996. Section 7(1) defines an arbitration agreement as an agreement by the parties to submit to arbitration all or certain disputes, present or future, arising from a defined legal relationship, contractual or not, whether as a clause or a separate agreement. No formula is prescribed. *Rukmanibai Gupta v. Collector, Jabalpur* (1980) 4 SCC 556 read a lease clause sending disputes to the lessor, whose decision would be final, as an arbitration agreement though "arbitration" never appeared. Intention, not vocabulary, governs.

Intention must carry the attributes identified in *K.K. Modi v. K.N. Modi* (1998) 3 SCC 573 and *Bihar State Mineral Development Corporation v. Encon Builders* (2003) 7 SCC 418: a present or future dispute, consensual reference to a private tribunal, a duty to decide judicially after hearing both sides, and agreement to be bound. It must be in writing (s.7(3)), which s.7(4) satisfies through a signed document, an exchange of letters or electronic communications, or pleadings in which one party alleges the agreement and the other does not deny it. Under s.7(5), a written contract referring to a document containing an arbitration clause incorporates it if the reference makes it part of the contract. *Jagdish Chander v. Ramesh Chander* (2007) 5 SCC 719 held that a clause saying parties "may" go to arbitration, needing fresh consent, is no arbitration agreement, and *K.K. Modi* treated expert determination without adjudication as outside arbitration.

Section 8, as amended in 2015, obliges a judicial authority to refer parties to arbitration unless it finds prima facie that no valid agreement exists. Under s.11, failing an agreed procedure, the Supreme Court (international commercial arbitration) or the High Court (domestic), or any person or institution designated by such Court, appoints. Section 11(6-A) confines the court to examining the existence of an arbitration

agreement, undoing in effect the wide inquiry allowed by *SBP & Co. v. Patel Engineering* (2005) 8 SCC 618; s.11(13) asks for disposal within sixty days as far as possible. *Duro Felguera S.A. v. Gangavaram Port Ltd.* (2017) 9 SCC 729 confirmed that only existence is seen; *Vidya Drolia v. Durga Trading Corporation* (2021) 2 SCC 1 prescribed a prima facie screen ("when in doubt, refer"); and the seven-judge bench in *In re: Interplay Between Arbitration Agreements under the Arbitration and Conciliation Act, 1996 and the Indian Stamp Act, 1899* (2024) 6 SCC 1 held non-stamping no threshold bar.

The rest belongs to the tribunal. Section 16 lets it rule on its own jurisdiction and treats the clause as independent of the main contract. *Cox and Kings Ltd. v. SAP India Pvt. Ltd.* (2024) 4 SCC 1 held that a non-signatory may be bound under the group of companies doctrine, a question for the tribunal. This week, in *Shubham Equipment Pvt. Ltd. v. Rothwell Water Co. Ltd.*, 2026 INSC 1098, a three-judge bench led by the Chief Justice held that, the Mumbai clauses in the JVA and MoU being admitted, overlap with a Seoul-seated clause in a licence "mother agreement" and joinder of a non-signatory subsidiary were for the arbitrator, not grounds to refuse reference under s.11(6-A).

One caution qualifies the statement: the "particular person" must be eligible. Section 12(5) with the Seventh Schedule disqualifies persons with listed relationships to a party unless waived in writing after disputes arise, and *Perkins Eastman Architects DPC v. HSCC (India) Ltd.* (2020) 20 SCC 760 barred an interested party from unilaterally appointing a sole arbitrator. A clause may be an arbitration agreement without saying so, but its arbiter must be neutral.

Mains Q4. — Assam Judicial Service (Grade III) Law Paper-I, 2008 · Constitution — Right to equality (Articles 14-18), equality of opportunity in public employment (Article 16), compassionate appointment and seniority

Explain the various aspects of the right to equality under the Constitution of India.

The right to equality is not one guarantee but a code spread across Articles 14 to 18. Article 14 contains two ideas: equality before law, a negative command that no one is above the law, and equal protection of the laws, a positive command that like persons be treated alike. It permits reasonable classification resting on an intelligible differentia bearing a rational nexus to the object of the law (*State of West Bengal v. Anwar Ali Sarkar*, AIR 1952 SC 75). *E.P. Royappa v. State of Tamil Nadu* (1974) 4 SCC 3 added the dynamic limb: equality is antithetic to arbitrariness. Article 15 bars State discrimination on grounds only of religion, race, caste, sex or place of birth; clauses (3) to (6) permit special provision for women, children, backward classes and EWS. Article 17 abolishes untouchability and Article 18 abolishes titles.

Article 16 applies this code to public employment. Clause (1) guarantees equality of opportunity in matters of employment or appointment to any office under the State, including promotion, not merely entry. Clause (2) bars ineligibility or discrimination on grounds only of religion, race, caste, sex, descent, place of birth or residence. Clause (3) lets Parliament alone prescribe residence for certain classes of posts, and clause (5) saves religious-denomination requirements for offices in religious institutions. Clause (4) permits reservation for backward classes inadequately represented in State services. *State of Kerala v. N.M. Thomas* (1976) 2 SCC 310 read clause (4) not as an exception to clause (1) but as an emphatic restatement of it. *Indra Sawhney v. Union of India* 1992 Supp (3) SCC 217 fixed a 50% ceiling save in extraordinary situations, required exclusion of the creamy layer and held that Article 16(4) does not permit reservation in promotion. Parliament responded with clause (4A) for SC/ST promotions (77th Amendment, 1995), clause (4B) treating carried-forward vacancies as a separate class outside the ceiling (81st Amendment, 2000) and clause (6) for EWS (103rd Amendment, 2019).

Equality of opportunity also governs how posts are filled. *Secretary, State of Karnataka v. Umadevi* (3) (2006) 4 SCC 1 held that public employment must follow open, rule-based selection, so backdoor appointees cannot be regularised by judicial direction. Compassionate appointment survives only as a narrow exception to Articles 14 and 16; *Umesh Kumar Nagpal v. State of Haryana* (1994) 4 SCC 138 confined it to tiding a family over the immediate crisis of a breadwinner's death and denied it any status as a vested right. *Santosh B. Naik v. State of Goa*, 2026 INSC 1089 adds that a court cannot read equivalence into a recruitment rule that contains none, because eligibility comes before merit and higher marks cannot cure a missing essential qualification.

The same logic controls seniority. Service conditions are regulated by rules under Article 309, and executive instructions under Article 162 may fill gaps but cannot supplant statutory rules (*Sant Ram Sharma v. State of Rajasthan*, AIR 1967 SC 1910). *Direct Recruit Class II Engineering Officers' Association v. State of Maharashtra* (1990) 2 SCC 715 counts seniority from substantive appointment, not from ad hoc or stop-gap service. *M. Prema v. State of Tamil Nadu*, 2026 INSC 1105 applied both principles: a Government Order under Article 162 could not override the rules, and compassionate or temporary appointees could not rank above regularly selected direct recruits merely because they joined earlier.

Indian equality is thus substantive, not formal. It tolerates classification and protective discrimination for the disadvantaged, but it insists that public posts be reached only through the rules and that no executive shortcut displaces the merit of those regularly selected.

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

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