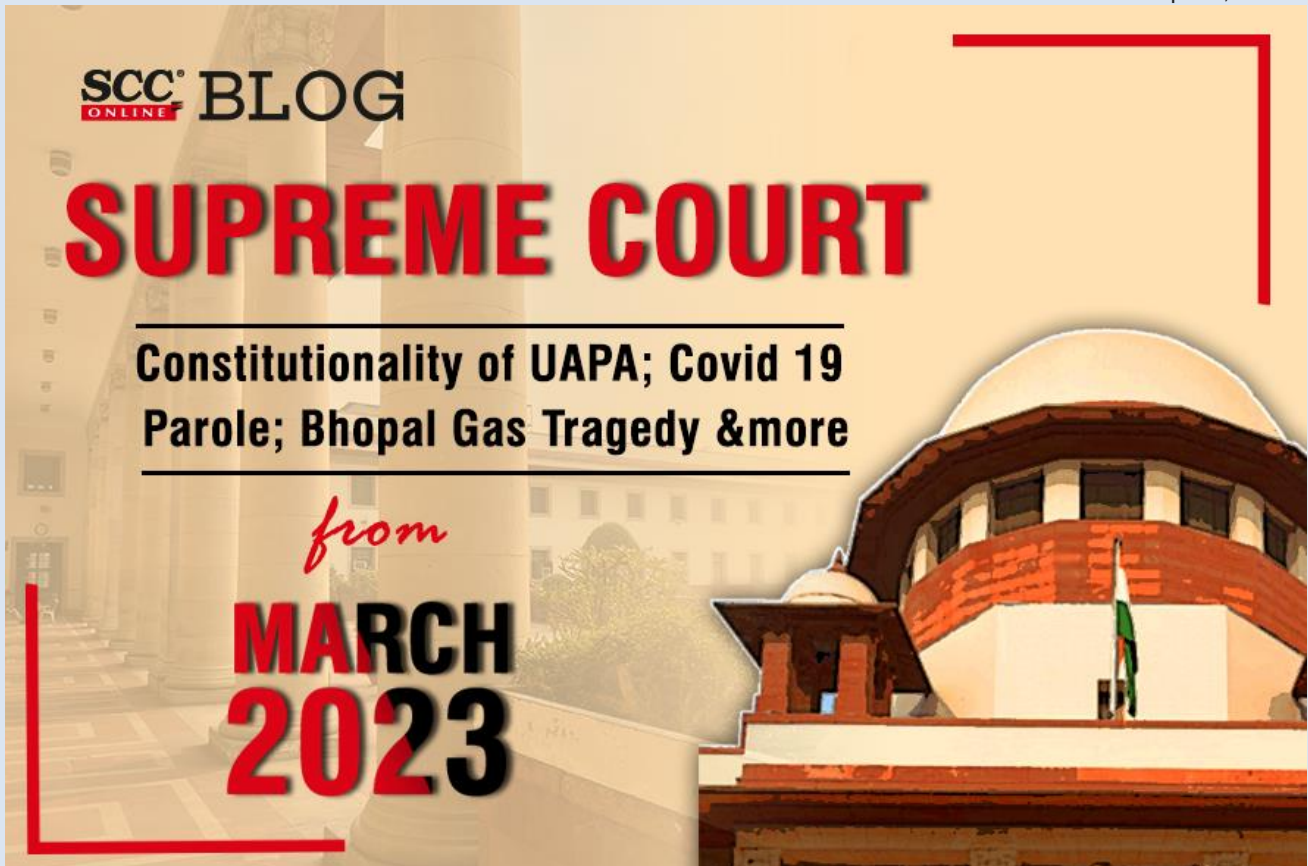


Supreme Court | Constitutionality of UAPA; Covid 19 Parole; Bhopal Gas Tragedy and more from March 2023

SCC sconline.com/blog/post/2023/04/03/supreme-court-constitutionality-of-uapa-covid-19-parole-bhopal-gas-tragedy-and-more-from-march-2023

April 3, 2023



Constitution Bench Verdicts

An Independent Election Commission of India as envisioned by Supreme Court's Constitution Bench: Breakdown of the 378-pages long verdict

The 5-judge Constitution Bench of K.M. Joseph, Ajay Rastogi, Aniruddha Bose, Hrishikesh Roy and C.T. Ravikumar, JJ has settled the dispute revolving around appointment of members of the Election Commission of India (ECI) and has held that the Chief Election Commissioner and Election Commissioners shall appointed by the President on the advice of a 3-member committee consisting of: the Prime Minister of India; the leader of opposition in Lok Sabha or in case, there is no such Leader, the Leader of the largest Party in the Opposition in the Lok Sabha having the largest numerical strength; and the Chief Justice of India [Read more](#)

[Anoop Baranwal v. Union of India, [2023 SCC OnLine SC 216](#)]

Bhopal Gas Tragedy| Supreme Court Constitution Bench dismisses Centre's plea for enhanced compensation from Union Carbide Corporation

The Constitution Bench comprising of Sanjay Kishan Kaul, Sanjiv Khanna, Abhay S. Oka, Vikram Nath and J.K. Maheshwari, J.J., which had reserved its judgment on 12-01-2023, delivered its judgment dated 14-03-2023 dismissing the curative petition seeking enhancement of compensation for the victims of the world's largest industrial disaster- the Bhopal Gas Tragedy. [**Read more**](#)

[Union of India v Union Carbide Corporation, [2023 SCC OnLine SC 264](#)]

Explained| "Important to end a lis": Why Supreme Court dismissed plea for enhanced compensation for Bhopal Gas Tragedy victims

The 5-judge Constitution Bench of Sanjay Kishan Kaul*, Sanjiv Khanna, Abhay S. Oka, Vikram Nath and J.K. Maheshwari J.J. dismissed the curative petition seeking reconsideration of the settlement that was effected in the aftermath of the Bhopal gas tragedy. [**Read more**](#)

[Union of India v Union Carbide Corporation]

Ek Nath Shinde v Uddhav Thackeray | Supreme Court Constitution bench reserves judgment

The five Judge Constitution Bench of Dr. D.Y. Chandrachud C.J., and M.R. Shah, Krishna Murari, Hima Kohli and P.S. Narasimha J.J., had started to hear the matter from 14-02-2023 and reserved its judgment dated 16-03-2023 in a batch of petition pertaining to the split within the Shiv Sena party between Ek Nath Shinde and Uddhav Thackeray factions, which led to a gigantic political crisis in Maharashtra leading to a change in the State government in the year 2022. [**Read more**](#)

[Subhash Desai v. Governor of Maharashtra]

Read all the updates on Subhash Desai case here:

- ♦ [Ek Nath Shinde versus Uddhav Thackeray| Senior Advocate Kapil Sibal lays down issues for consideration before the Supreme Court](#)
- ♦ [\[Ek Nath Shinde v Uddhav Thackeray\] SC Constitution bench defers to decide on the issue of reference of 5-judge bench decision of 'Nabam Rebia' to a larger bench](#)
- ♦ [Explained| Ek Nath Shinde versus Uddhav Thackeray: Why is Shinde's appointment as the Maharashtra CM under challenge before Supreme Court?](#)
- ♦ [Maharashtra Political Crisis| No stay on floor test, disqualification proceedings to be kept in abeyance till July 11; Read SC's directions on Ek Nath Shinde's plea](#)

Supreme Court Constitution Bench considers the existence of Doctrine of Group of Companies in Indian jurisprudence vis-à-vis Arbitration Act

The Constitution bench comprising of Dr. Dhananjaya Y. Chandrachud C.J., Hrishikesh Roy, Pamidighantam Sri Narasimha, J.B. Pardiwala and Manoj Misra, commenced the hearing of Cox and Kings Limited v SAP India Private Limited, pertaining to the issue of:

- Whether the Group of Companies Doctrine exists in Indian jurisprudence, independent of statutory provision?
- Whether the same can be read into Section [8](#) of the [Arbitration and Conciliation Act, 1996](#) ('Arbitration Act')?
- Whether it should continue to be invoked on grounds of a single economic reality principle?
- Whether it should be construed as a means of interpreting the implied intent or consent to arbitrate between the parties? [Read more](#)

[Cox and Kings Limited v SAP India Private Limited]

Read all the updates from the judgments delivered and the matters heard by the Constitution Bench in the month of March 2023 [here](#).

Affinity test

Affinity test not integral for determining the correctness of a caste claim: Supreme Court

In a batch of appeals against the order passed by the Bombay High Court, wherein the Court has held that the affinity test is an integral part of the determination of the correctness of the caste claim, the full bench of Sanjay Kishan Kaul, Abhay S. Oka* and Manoj Misra, JJ. held that affinity test is not a litmus test to decide a caste claim and is not an essential part in the process of the determination of correctness of a caste or tribe claim in every case. [Read more](#)

[Mah. Adiwasi Thakur Jamat Swarakshan Samiti v. State of Maharashtra, [2023 SCC OnLine SC 326](#)]

Adani-Hindenburg Report

Adani-Hindenburg Report | Supreme Court constitutes Expert Committee; Directs SEBI to conclude investigation in 2 months

In a batch of petitions seeking protection of investor interests against the recent loss in securities market due to steep decline in the share price of Adani Group of Companies ('Adani Group'), the Bench of Dr. Dhananjaya Y. Chandrachud, CJ., and Pamidighantam Sri Narasimha and J.B. Pardiwala, JJ. has constituted an Expert Committee headed by

retired Supreme Court Justice Abhay Manohar Sapre to assess the regulatory framework for protecting investor interests in India and directed SEBI to conclude its investigation into the present matter within 2 months. [Read more](#)

[Vishal Tiwari v. Union of India, [2023 SCC OnLine SC 215](#)]

Amendment of Plaintiff

Explained | Supreme Court explains the amendment of plaintiff under Order 6 Rule 17 of CPC and maintainability of fresh suit as per Order IX Rule 9 of CPC

In an appeal challenging the amendment of plaintiff and applicability of provisions of Order [IX Rule 9](#) of [Civil Procedure Code, 1908](#) ('CPC') in a case wherein the request for amendment in plaintiff, initially rejected but was allowed by the Revisional Court and High Court, the Division Bench of Sudhanshu Dhulia and J.B. Pardiwala, JJ. dismissed the present appeal while discussing at length the amendment of a plaintiff or written statement or filing of an additional written statement, and the maintainability of fresh suit in case of a decree passed against the plaintiff. [Read more](#)

[Ganesh Prasad v. Rajeshwar Prasad, [2023 SCC OnLine SC 256](#)]

Appointments

Judicial Appointments| Supreme Court directs Madhya Pradesh High Court to fill 10% seats by Limited Departmental Competitive Examination

In a Civil Appeal filed against the judgment passed by the Madhya Pradesh High Court in a praying for filling up of the posts in the higher judiciary within 10% seats by limited departmental competitive examination ('LDCE') and cancellation of seats filled beyond the 10% quota, the Division Bench of M.R. Shah and C.T. Ravikumar, JJ. directed the High Court to comply with the directions of the Supreme Court restricting 10% seats to be filled by LDCE, to adjust the breach in further recruitment. The Court refused to grant any relief to the petitioners in the absence of selected/appointed candidate. [Read more](#)

[Rajendra Kumar Shrivastava v. State of Madhya Pradesh, [2023 SCC OnLine SC 252](#)]

“Government resolutions cannot override statutory rules”; Supreme Court upholds Bombay HC’s decision in dispute related to appointment of ACF

In a Civil Appeal challenging Bombay High Court’s judgment upholding the order passed by the Maharashtra Administrative Tribunal ('MAT') regarding appointment to the post of Assistant Conservator of Forest ('ACF'), the Division Bench of Sanjay Kishan Kaul* and Abhay S. Oka, JJ. dismissed the same holding that Government resolutions cannot override statutory rules and that rules for recruitment to Maharashtra Forest Service would operate in full force. [Read more](#)

[Ashok Ram Parhad v. State of Maharashtra, [2023 SCC OnLine SC 265](#)]

Bail matters

Nature of allegations, Seriousness and Gravity of the offence must be considered along with cogent reasons for granting bail in serious offences; Supreme Court sets aside bail order of Allahabad HC

In an appeal against the orders passed by the Allahabad High Court, wherein the Court has released one of the accused on bail, the division bench of *M.R. Shah and C.T. Ravikumar, J.J., set aside the impugned order as nature of allegations, seriousness and gravity of the offences have not been considered by the High Court, also no cogent reasons have been assigned while releasing the respective accused on bail. In the matter at hand, the accused persons formed an unlawful assembly and ran over the tractor on the standing crops trying to take possession of the land, thereafter, killed the complainant's brother and seriously injured other persons. The High Court released the one accused on bail when the other accused persons are facing trial under Sections [147](#), [148](#), [307](#), [302](#) and other offences of [Penal Code, 1860](#) ('IPC'), which in the nature are very serious offences.

[Read more](#)

[Yashpal Singh v. State of Uttar Pradesh]

Casting Couch: Model alleges rape; Supreme Court sets aside Bombay High Court's order granting anticipatory bail to Businessman

In a case where a model had alleged casting couch, the bench of AS Bopanna and Hima Kohli*, JJ has set aside the anticipatory bail granted to the accused after noticing that the prosecutrix was denied the meaningful right to hearing by the Bombay High Court. [Read more](#)

[X v. State of Maharashtra, [2023 SCC OnLine SC 279](#)]

Supreme Court grants anticipatory bail to accused without imposing any condition of deposit of revenue loss

In an appeal arises out of judgment and order dated passed by Uttarakhand High Court rejecting the anticipatory bail of the appellant/accused in connection with summons issued by Deputy Commissioner State (GST) under Section 70 of the Uttarakhand Goods and Services Tax/[Central Goods and Services Tax Act, 2017](#) ('GST Act'), the division bench of Krishna Murari and Ahsanuddin Amanullah, JJ. granted anticipatory bail to the accused without imposing any condition as suggested by Additional Solicitor General and set aside the judgment and order dated passed by Uttarakhand High Court. [Read more](#)

[Rajesh Kumar Dudani v State of Uttarakhand, [2023 SCC OnLine SC 209](#)]

Economic offences under PMLA not to be treated lightly, Courts should tread meticulously before granting bail: Supreme Court

Exercising its criminal appellate jurisdiction, the division bench of M.R. Shah* and C.T. Ravikumar J.J., while setting aside the judgment passed by the Telangana High Court stated that it did not take into consideration the nature of allegation and seriousness of the offences alleged of money laundering and offences under the [Prevention of Money Laundering Act, 2002](#) ('PMLA') but instead dealt with the prayer for anticipatory bail in connection with the ordinary offence under the [Penal Code, 1860](#) ('IPC'). [Read more](#)

[Directorate of Enforcement v M. Gopal Reddy, [2022 SCC OnLine SC 1862](#)]

Consumer Disputes

Complaints with 'highly disputed questions of facts' cannot be decided by Consumer Disputes Redressal Commission/Forum: Supreme Court

In an appeal challenging the National Consumer Disputes Redressal Commission ('NCDRC') dismissing the appeal against Tamil Nadu State Consumer Disputes Redressal Commission ('SCDRC') holding the bank liable for deficiency in service under Section [2\(1\)\(g\)](#) of [Consumer Protection Act, 1986](#), the Division Bench of Ajay Rastogi and Bela M. Trivedi, JJ. held that complaints involving highly disputed questions of facts could not be decided by NCDRC or SCDRC respecting the summary nature of proceedings under the 1986 Act. [Read more](#)

[City Union Bank Ltd. V.R. Chandramohan]

Supreme Court affirms the order of the Bombay High Court supporting lawyers with 10 years' experience to be considered for Consumer Commission appointment

Exercising their civil appellate jurisdiction, the division bench of M.R. Shah* and M.M. Sundresh J.J., held that people having a Bachelors degree and a professional experience of at least 10 years in consumer affairs, law, public affairs, administration and alike should be treated as qualified for appointment as president and members of State Consumer Commissions and District Consumer Forums. [Read more](#)

[Secretary Ministry of Consumer Affairs v Mahindra Bhaskar Limaye, [2023 SCC OnLine SC 231](#)]

"Upon receipt of three show cause notices, allottee showed no urgency in taking steps to set up the industrial unit", Supreme Court upholds NCDRC order

In an appeal against orders of the National Consumer Disputes Redressal Commission ('NCDRC'), wherein the NCDRC allowed a revision petition filed by the Haryana State Industrial Development Corporation /respondent, the division bench of S. Ravindra Bhat* and Dipankar Datta JJ. held that the appellant/allottee is only entitled to refund of the sum of 1,66,425/- which was paid for the plot. However, there is no denial of the fact

that the cheque issued to him was returned and HSIDC had the benefit of those monies all these years. In these circumstances, HSIDC is directed to refund the sum of ₹ 1,66,425/- with interest at 6% p.a. from 18-09-1998 till date. The amounts shall be paid to the appellant, within six weeks of this judgment. [Read more](#)

[Aman Semi-Conductors (P) Ltd. v. Haryana State Industrial Development Corpn. Ltd., [2023 SCC OnLine SC 195](#)]

COVID-19

COVID-19 Parole ends; Undertrial Prisoners/Convicts to return to prisons as Supreme Court directs them to surrender

The Bench of MR Shah* and CT Ravikumar, JJ has directed that all those under trials/convicts who were released on Emergency Parole/Interim Bail pursuant to the recommendation of the High-Powered Committee, in compliance of the Orders passed by the Supreme Court, have to surrender before the concerned prison authorities within 15 days. [Read more](#)

[In Re: Contagion of Covid-19 Virus in Prisons]

Criminal Trials and Procedure

Trial in a Dowry Death case prompts Supreme Court to reiterate guidelines for exercising powers under Section 319 of CrPC

In a Criminal Appeal challenging the Punjab & Haryana High Court's judgment ordering summoning of appellants as additional accused under Section 319 of [Criminal Procedure Code, 1973](#) ('CrPC') while setting aside the Trial Court's order, the Division Bench of Surya Kant* and J.K. Maheshwari, JJ. modified the High Court's judgment sustaining the summoning of the appellant residing in the same house in a case of dowry death, while setting aside the same for other appellants due to lack of evidence of meddling with the affairs of the deceased. [Read more](#)

[Juhru v. Karim, [2023 SCC OnLine SC 171](#)]

Supreme Court grants anticipatory bail to accused without imposing any condition of deposit of revenue loss

In an appeal arises out of judgment and order dated passed by Uttarakhand High Court rejecting the anticipatory bail of the appellant/accused in connection with summons issued by Deputy Commissioner State (GST) under Section 70 of the Uttarakhand Goods and Services Tax/[Central Goods and Services Tax Act, 2017](#) ('GST Act'), the division bench of Krishna Murari and Ahsanuddin Amanullah, JJ. granted anticipatory bail to the accused without imposing any condition as suggested by Additional Solicitor General and set aside the judgment and order dated passed by Uttarakhand High Court. [Read more](#)

[Rajesh Kumar Dudani v State of Uttarakhand, [2023 SCC OnLine SC 209](#)]

“Death Sentence to be imposed only if no possibility of reform”; SC commutes death sentence to 20-years rigorous imprisonment in 7-year-old’s kidnapping-murder case

While exercising its inherent jurisdiction by way of a review petition in a criminal appeal, the full bench of Dr. Dhananjaya Y. Chandrachud*, C.J., Hima Kohli and Pamidighantam Sri Narasimha, J.J., has commuted the death sentence of the petitioner convicted for the offence of kidnapping and murder of a 7-year-old minor, to life imprisonment for not less than 20 years, without remission. [Read more](#)

[Sundar v State by Inspector of Police, [2023 SCC OnLine SC 310](#)]

Prosecution should explain the injuries on accused for a robust case, Supreme Court acquits man convicted in a 2006 murder case

While exercising its criminal appellate jurisdiction, the full bench of B.R. Gavai*, Vikram Nath and Sanjay Karol, J.J., stated that omission on part of the prosecution to explain injuries on the accused indicated that they had suppressed the genesis of the occurrence and therefore assumed greater importance where the evidence considered was of interested witnesses or where the case of defence chalks down another probability with that of the prosecution. Accordingly acquitted the appellants from charges imposed by the Trial Court and affirmed by the Chhattisgarh High Court on grounds that:

- Prosecution had not explained injuries on the accused.
- Delay in filing the First Information Report (‘FIR’).

Evidence consisted of interested witnesses. [Read more](#)

[Nand Lal v State of Chhattisgarh, [2023 SCC OnLine SC 262](#)]

Supreme Court finds Chhattisgarh High Court’s judgment ‘Sketchy’; Acquits murder convict in a 20-year-old case

In a criminal appeal against the conviction in a murder case by the Chhattisgarh High Court, the division bench of B.R. Gavai and Sanjay Karol*, JJ. set aside the findings of guilt and sentence arrived in the impugned judgment and acquitted the convict/appellant.

[Read more](#)

[Pradeep Kumar v State of Chhattisgarh, [2023 SCC OnLine SC 275](#)]

‘Circumstantial evidence to be accompanied with motive and corroborating evidence’; Supreme Court acquits men accused in 2001 murder case

While exercising its criminal appellate jurisdiction, the division bench of Ajay Rastogi and C.T. Ravikumar* held that though the deceased had met with a homicidal death, it cannot

be said that the rest of the circumstantial evidence culled out by the Courts below unerringly point to the culpability of the appellants in the homicidal death and accordingly acquitted the appellants. [Read more](#)

[Shankar v State of Maharashtra, [2023 SCC OnLine SC 268](#)]

Juvenile Justice| Supreme Court directs release of death row convict in minor's kidnap, rape, and murder case; holds incarceration for more than 3 years illegal

Exercising its criminal appellate jurisdiction, the full bench of B.R. Gavai, Vikram Nath* and Sanjay Karol, J.J., stated that the object under the Juvenile Justice (Care and Protection) Act, 2015 ('J.J. Act, 2015') was to deal with the rights and liberties of the juvenile and to ensure that he or she, in conflict with law, could be brought into the mainstream by awarding lesser sentence, thus, modified the impugned judgement and upheld the conviction of the appellant, however, set aside the death sentence, directing his release forthwith. [Read more](#)

[Karan v State of Madhya Pradesh, [2023 SCC OnLine SC 217](#)]

Supreme Court emphasises on Appellate Courts' limited scope in remanding back the matter for a de novo trial

Exercising their appellate jurisdiction, the division bench of Dinesh Maheshwari* and Sudhanshu Dhulia J.J., set aside the order passed by the High Court and restored the appeal for consideration by stating that the High Court had passed an ipse dixit order and had erred in remanding the matter for trial de novo without recording any finding. [Read more](#)

[Sirajudheen v Zeenath, [2023 SCC OnLine SC 196](#)]

Desirable if High Courts maintain a hands-off approach and not quash FIRs in corruption cases at the stage of investigation: Supreme Court

In five appeals against the judgment and order passed by the Chhattisgarh High Court, whereby 3 writ petitions were allowed by quashing First Information Report ('FIR') registered for offences under Section 13(1)(b) and (2), [Prevention of Corruption Act, 1988](#) ('P.C. Act') read with section 120-B of the Penal Code ('IPC'), registered by the Economic Offences Wing/Anti-Corruption Bureau of the State, the division bench of S. Ravindra Bhat and Dipankar Datta*, JJ. held that the High Court was not justified in its interference with the investigative process and committed an error of law in quashing the FIR on the grounds it did. Further, it held that there are no cogent grounds for quashing the FIR in the present case even on the ground of mala fide. [Read more](#)

[State of Chattisgarh v. Aman Kumar Singh, [2023 SCC OnLine SC 198](#)]

Allegation of demand of gratification and acceptance made by a public servant must be established beyond a reasonable doubt; Supreme Court set aside order of conviction

In a criminal appeal filed against order of the Delhi High Court upholding the order of conviction the Special Judge, Delhi, wherein the Court convicted the appellant/convict for the offences punishable under Section 7 and clauses (i) and (ii) of Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 ('the PC Act'), the division bench of Abhay S. Oka* and Rajesh Bindal, JJ. reiterated that in absence of direct evidence for offences punished under Prevention of Corruption Act, reliance can be placed on circumstantial evidence to prove demand of gratification and set aside the order of conviction. [Read more](#)

[Neeraj Dutta v. State (NCT of Delhi), [2023 SCC OnLine SC 280](#)]

Trial in a Dowry Death case prompts Supreme Court to reiterate guidelines for exercising powers under Section 319 of CrPC

In a Criminal Appeal challenging the Punjab & Haryana High Court's judgment ordering summoning of appellants as additional accused under Section 319 of Criminal Procedure Code, 1973 ('CrPC') while setting aside the Trial Court's order, the Division Bench of Surya Kant* and J.K. Maheshwari, JJ. modified the High Court's judgment sustaining the summoning of the appellant residing in the same house in a case of dowry death, while setting aside the same for other appellants due to lack of evidence of meddling with the affairs of the deceased. [Read more](#)

[Juhru v. Karim, [2023 SCC OnLine SC 171](#)]

For proving threat under S. 364-A IPC, intimidation of kidnapped victim, for the purpose of making him silent, cannot be enough.: SC

In appeals against the order of conviction and judgment of the Punjab and Haryana High Court, the division bench of Sanjay Kishan Kaul and B.V. Nagarathna*, J.J., granted relief to the convict/appellants, modifying the sentences imposed under Section 364-A of Penal Code, 1860 ('IPC') to Section 363 IPC. [Read more](#)

[Ravi Dhingra v. State of Haryana, [2023 SCC OnLine SC 199](#)]

Environment Protection

NGT can direct Pollution Board to exercise its powers under Section 5 of Environment (Protection) Act: Supreme Court

In an appeal filed by an oil marketing company against the judgment and order passed by the National Green Tribunal ('NGT'), wherein it directed the Central Pollution Control Board ('CPCB') as well as the State Pollution Control Boards to issue directions to make it mandatory to obtain Consent to Establish ('CTE') (i.e. prior permission of the pollution control board to begin the work of construction of petrol retailing outlet at any place), and

the Consent to Operate ('CTO') (i.e after the establishment of the retail petroleum outlets, a certificate is issued permitting to commence operation), for new retail petroleum outlets as well as the existing retail petroleum outlets, the division bench of Sudhanshu Dhulia and J.B. Pardiwala*, JJ. held that the NGT has the power to direct the CPCB that it should exercise its powers under Section 5 of the Environment (Protection) Act, 1986 ('Act 1986') for the purpose of protecting the environment, however, it modified the impugned directions issued by the NGT as contained in para 69(iii) and 69(iv) of the impugned order. [Read more](#)

[Indian Oil Corporation Limited v VBR Menon, [2023 SCC OnLine SC 257](#)]

Insolvency and Bankruptcy

Initiation of IBC proceedings does not absolve Company Directors/Signatories of criminal liability under Section 138 NI Act: SC

In the case where the 3-judge bench of Sanjay Kishan Kaul*, Abhay S. Oka and JB Pardiwala**, JJ was called upon to decide whether during the pendency of the proceedings under the Insolvency and Bankruptcy Code, 2016 which have been admitted, the proceedings under the Negotiable Instruments Act, 1881 can continue simultaneously or not, it has been held the scope of nature of proceedings under the two Acts are quite different and would not intercede each other. [Read more](#)

[Ajay Kumar Radheyshyam Goenka v. Tourism Finance Corporation India Ltd, [2023 SCC OnLine SC 266](#)]

Judicial Review

ONLINE

High Court's belief of self-righteousness or smugness while exercising judicial review should not overawe other authorities discharging statutory duties: Supreme Court

The present batch of Special Leave Petitions challenge the Kerala High Court's refusal to entertain application against issuance of summons by the Trial Court for offences under Sections 120-B, 406, 423 read with 34 of IPC for illegal alienation of certain immovable properties of the Church, also rejected by the Sessions Court, the Division Bench of Bela M. Trivedi and Dinesh Maheshwari, JJ. refused to interfere with the findings of three Courts below. The Court quashed and set aside the subsequent orders passed by the High Court and specifically commented on the High Court's unwarranted judicial activism overawing the other authorities discharging their statutory functions. [Read more](#)

[Cardinal Mar George Alencherry v State of Kerala, [2023 SCC OnLine SC 286](#)]

Jurisdiction

High Courts have jurisdiction to adjudicate upon the Orders passed by the Armed Forces Tribunal, Supreme Court overrules its 2015 judgement

While exercising its civil appellate jurisdiction, the full bench of Sanjay Kishan Kaul*, Abhay S. Oka and B.V. Nagarathna J.J, in a batch of petitions, held that the High Courts have jurisdiction to adjudicate upon the order passed by the Armed Forces Tribunal and overruled its decision in *Union of India v. Major General Shri Kant Sharma*, (2015) 6 SCC 773, which had barred the exercise of jurisdiction under Article 226 of the [Constitution of India](#) in cases assailing orders passed by the Armed Forces Tribunal.

[Read more](#)

[Union of India v Parashotam Dass, [2023 SCC OnLine SC 314](#)]

Review application cannot be used as an Appeal in disguise, reiterates Supreme Court

Exercising its civil appellate jurisdiction, the division bench of M.R. Shah* and C.T. Ravikumar J.J., held that while allowing the review application and setting aside the judgment dated 03-03-2017, the Madras High Court had exceeded its review jurisdiction under Order 47 Rule 1 read with Section 114 of [Code of Civil Procedure, 1908](#) ('CPC')

[Read more](#)

[S. Murali Sundaram v. Jothibai Kannan, [\(2023\) SCC OnLine SC 185](#)]

Labour Disputes

Labour Disputes| Workman's permanent address must be mentioned, even if he/she is represented by Union: Supreme Court

After noticing that workmen do not mention their permanent address in cases where labour disputes are filed through Unions, the bench of Abhay S Oka and Rajesh Bindal*, JJ has directed the authorities working under the various labour laws to take some corrective steps in order to ensure that the address of the workman is provided as effective relief can be granted to a worker only if the permanent address of the workman is furnished in the pleadings. [Read more](#)

[Creative Garments Ltd v. Kashiram Verma, [2023 SCC OnLine SC 277](#)]

Land Acquisition

Land Acquisition| In public purpose schemes, Authority should be given the time allotted to it by the Statute for doing certain things: Supreme Court

In appeals filed by the Indore Development Authority against the judgment and order passed by the Madhya Pradesh High Court, wherein the Court has dismissed the said

appeals, confirming the common judgment and order passed by the Single Judge, whereby the Single Judge allowed the respective writ petitions against finalisation of Scheme No. 97(a residential scheme providing for other connected land uses) under Section 50 of the Madhya Pradesh Nagar Tatha Gram Nivesh Adhiniyam, 1973 ('Adhiniyam') and the subsequent land acquisition proceedings undertaken by the State of Madhya Pradesh under Sections [4](#) and [6](#) of the [Land Acquisition Act, 1894](#) ('Act, 1894'), the division bench of M.R. Shah* and B.V. Nagarathna, JJ. set aside the impugned judgment and order declaring Scheme No. 97 as having lapsed under Section 54 of the Adhiniyam. [Read more](#)

[Indore Development Authority v. Burhani Grih Nirman Sahakari Sanstha Maryadit Sneh Nagar, [2023 SCC OnLine SC 232](#)]

Pension

Employees of Orissa Khadi and Village Industries Board not entitled to pension on a par with Government employees; Supreme Court sets aside Orissa HC judgment

In an appeal against the judgment and order of the Orissa High Court, wherein the Court has dismissed the intra-court appeal filed by the State of Orissa and has affirmed the order in passed by the Single Judge of the High Court, holding the employees of the Orissa Khadi and Village Industries Board entitled to pension on a par with the Government employees and directing the State Government to amend the applicable regulations accordingly, the division bench of Dinesh Maheshwari* and Sanjay Kumar, JJ. sets aside the impugned judgment and order and said that Orissa Khadi and Village Industries Board Regulations, 1960 ('Regulations, 1960') governing the service conditions of the employees of the Board specifically contain the stipulation in Regulation 52 that they shall not be entitled to pension. The decisions cited by the respondents cannot be read as overriding to the said Regulation 52. [Read more](#)

[State of Orissa v Orissa Khadi and Village Industries Board Karmachari Sangh, [2023 SCC OnLine SC 281](#)]

Promotion

'Uncommunicated grade' cannot be relied upon for promotion; Supreme Court directs Departmental Promotion Committee to consider the case afresh

Exercising its power conferred under the civil writ jurisdiction, the division bench of M.R. Shah* and C.T. Ravikumar J.J., held that the case of the petitioner for promotion to the post of Assistant Registrar was required to be considered afresh ignoring the 'uncommunicated grading' for the year 2016-2017 and 2019-2020 and the ACR for the years 2017-18 & 2018-19 was to be considered which was stated to be 'very good'. [Read more](#)

[R.K. Jibanlata Devi v High Court of Manipur, [2023 SCC OnLine SC 178](#)]

Rehabilitation scheme

Unsecured creditors vis-à-vis object of SICA, 1985: Rehabilitation scheme binds all, holds Supreme Court

While exercising its civil appellate jurisdiction, the division bench of M.R Shah* and Sudhanshu Dhulia J.J., while setting aside the impugned order held that the Delhi High Court erred in stating that the unsecured creditors has an option to not accept the scaling down value of its dues and to wait till the rehabilitation scheme of the sick company has worked itself out with an option to recover the debt with interest post such rehabilitation.

[Read more](#)

[Modi Rubber Limited v Continental Carbon India Limited, [2023 SCC OnLine SC 296](#)]

Services

Service rendered by teachers in Zila Parishad to be counted towards the determination of seniority, even after their absorption into PMC: Supreme Court

In an appeal regarding the issue that whether the services rendered by primary teachers while in the service of the Zilla Parishad deserves to be counted towards their seniority after the transfer and merger of their services into the Pune Municipal Corporation ('PMC'), the division bench of Surya Kant* and J.K Maheshwari, JJ. held that the service rendered by respondents in the Zila Parishad is consistent and unbroken and it remains in existence even after their absorption into the PMC as a result of the statutory protection embodied under Clause (5) of Appendix (IV) read with Section 493 of the MMC Act. [Read more](#)

[Maharashtra Rajya Padvidhar Prathamik Shikshak Va Kendra Pramukh Sabha v Pune Municipal Corporation, [2023 SCC OnLine SC 291](#)]

Taxation

“Rule 3A(2) of Tripura Sales Tax Rules, 1976 does not change the chargeability or liability to pay tax”: Supreme Court upholds validity

In a Civil Appeal challenging the common judgment and order passed by the Division Bench of Gauhati High Court upholding the decision of Single Judge declaring Rule 3A(2) of the Tripura Sales Tax Rules, 1976 ('TST Rules') ultra vires to Tripura Sales Tax Act, 1976 ('TST Act'), the Division Bench of M.R. Shah and Krishna Murari, JJ. found the High Court's decision 'absolutely fallacious', quashed and set aside the judgment and order of both the Benches of High Court along with the quashing of memorandum of 1992 issued by the State Revenue Department. [Read more](#)

[State of Tripura v. Chandan Deb]

KVAT Act| Claims of Input Tax Credit Transaction must be proven beyond reasonable doubt: Supreme Court

While exercising its civil appellate jurisdiction, the division bench of M.R. Shah* and C.T. Ravikumar J.J., held that a dealer claiming Input Tax Credit on purchase ought to prove and establish actual physical movement of goods and genuineness of transaction. It noted that in order to establish the same, the dealer should furnish the name and address of the selling dealer, details of the vehicle which delivered the goods, payment of freight charges, acknowledgement of taking delivery of goods, tax invoices and payment particulars etc. under Section 70 of the [Karnataka Value Added Tax Act, 2003](#) ('KVAT, 2003'). It also noted that if the purchase dealer failed to prove the physical movement of the goods on which Input Tax Credit was claimed, the Assessing Authority would be justified in rejecting such ITC claims. [Read more](#)

[State of Karnataka v Ecom Gill Coffee Trading Private Limited, [2023 SCC OnLine SC 248](#)]

Transfer of Cases

Explained| Inter-State transfer of suit, appeal or other proceedings: Supreme Court's power under Section 25 CPC versus Common High Courts' power under Section 24 CPC

The bench of Hrishikesh Roy and Dipankar Datta*, JJ has explained the true import of Section 25 of the [Civil Procedure Code, 1908](#) ['CPC'] and has held that the same applies to inter-State transfer of a suit, appeal or other proceeding where both States have a High Court in terms of Article 214 of the [Constitution](#) and not to a transfer where both States have a common High Court under Article 231 thereof. Whereas, Section 24 of the CPC applies for inter-State transfer of a suit, appeal or other proceeding, if it is the common High Court for two or more States under Article 231 of the Constitution and both the Civil Courts (transferor and transferee) are subordinate to it. [Read more](#)

[Shah Newaz Khan v. State of Nagaland, [2023 SCC OnLine SC 203](#)]

Explained| Supreme Court's power under Section 406 CrPC to transfer Section 138 NI Act cases and effect of non-obstante clause under Section 142(1) NI Act

In transfer petitions filed under Section 406 of [Code of Criminal procedure 1973](#) ('CrPC') by the petitioner seeking transfer of two complaint cases filed against him for offences under Sections 138 and 142 of the [Negotiable Instruments Act, 1881](#) ('NI Act') from Civil Judge, Senior Division, Nagpur to the South West District Courts, Dwarka, New Delhi, to be tried along with other four complaint cases Dinesh Maheshwari and Sanjay Kumar, JJ. while allowing the transfer petitions, held that notwithstanding the non obstante clause in Section 142(1) of the NI Act, the power of this Court to transfer criminal cases under Section 406 CrPC. remains intact in relation to offences under Section 138 of the NI Act of 1881, if it is found expedient for the ends of justice. [Read more](#)

UAPA Constitutionality

Explained| Supreme Court's verdict upholding Constitutionality of S. 10(a)(i) of the UAPA, 1967

In a reference made on behalf of the Union of India and the State of Assam to larger bench, against the judgment and order passed in *Arup Bhuyan v. Union of India*, [\(2011\) 3 SCC 377](#) as well as *State of Kerala v. Raneef*, [\(2011\) 1 SCC 784](#), pursuant to the order passed by this Court in *Arup Bhuyan v. State of Assam*, [\(2015\) 12 SCC 702](#), the full bench comprising of M.R. Shah*, C.T Ravikumar and Sanjay Karol*, JJ. held that when an association is declared unlawful by notification issued under Section 3 Unlawful Activities and Prevention Act, 1967 ('UAPA') which has become effective of sub-section 3 of that Section, a person who is and continues to be a member of such association is liable to be punished with imprisonment for a term which may extend to two years and shall also be liable to fine under Section 10(a)(i) of the UAPA, 1967. Thus, Section 10(a)(i) UAPA was held to be constitutional. Further, it is held that any other decisions of the High Court taking a contrary view is not good law and were specifically overruled by this Judgment.

[Read more](#)

[*Arup Bhuyan v State of Assam*, [Criminal Appeal No. 889 of 2007](#)]

UAPA Judgment| Justice Sanjay Karol's opinion on reliance on American decisions to read down Section 10 UAPA

In a reference made on behalf of the Union of India and the State of Assam to larger bench, against the judgment and order passed in *Arup Bhuyan v. Union of India*, [\(2011\) 3 SCC 377](#) as well as *State of Kerala v. Raneef*, [\(2011\) 1 SCC 784](#), pursuant to the order passed by this Court in *Arup Bhuyan v. State of Assam*, [\(2015\) 12 SCC 702](#), the full bench comprising of M. R. Shah*, C.T Ravikumar and Sanjay Karol*, JJ. upheld the constitutional validity of Section 10(a)(i) of the Unlawful Activities and Prevention Act, 1967 ('UAPA'). Sanjay Karol J. concurred with the views taken by the Bench but traced the development of law on the issue in India and the application of the decisions rendered by the Courts in the United States of America. Thus, he held that placing reliance on decisions rendered in a distinct scenario as well as a demonstrably different constitutional position, especially in cases which involve considerations of national security and sovereignty, was not justified. [Read more](#)

[*Arup Bhuyan v State of Assam*]

Unmissable Stories

SCBA cannot assert right over 1.33 acres of Supreme Court land for constructing lawyers' chambers; Supreme Court dismisses petition filed by Senior Advocate Vikas Singh

While exercising its civil original jurisdiction, the full bench of Dr. Dhananjaya Y Chandrachud, C.J.*, Sanjay Kishan Kaul and Pamidighantam Sri Narasimha J.J., held that it cannot consider the plea of the Supreme Court Bar Association ('SCBA') on the judicial side, to convert the entire 1.33 acres of the land allotted to the Supreme Court by the Ministry of Urban Development for the space for lawyers' chambers. [Read more](#)

[Supreme Court Bar Association v Ministry of Urban Development]

Abolition of Orissa Administrative Tribunal Constitutionally valid: Supreme Court

In an appeal against the judgment of the Orissa High Court, in a batch of writ petitions challenging the abolition of the Odisha Administrative Tribunal ('OAT'), wherein the Court dismissed the writ petition, the division bench of Dr. DY Chandrachud*, CJ and Hima Kohli, J. held that the abolition of the OAT was constitutionally valid. Further, the Bench rejected the challenge to the constitutional validity of the impugned notification dated 2-08-2019 by which the OAT was abolished. [Read more](#)

[Orissa Administrative Tribunal Bar Association v Union of India]

Once rural area is declared to be urbanised under DMC Act, provisions of the DLR Act cease to apply: Supreme Court

In appeal against the judgment and order passed by the Delhi High Court, wherein the Court held that once the rural area is urbanised by issuance of a notification under Section [507\(a\)](#) of the [Delhi Municipal Corporation Act, 1957](#) ('DMC Act 1957'), it ceases to be governed by the provisions of the Delhi Land Reforms Act, 1954 ('DLR Act 1954') in sequel thereto and held that the proceedings under DLR Act, 1954 were non est, the full bench of Ajay Rastogi*, C.T. Ravikumar and Bela M. Trivedi, JJ. upheld the impugned judgment and order and directed the appellants to hand over physical possession of the land, free from all encumbrances to the respondents within a period of two months from the date of passing of this order. [Read more](#)

[Mohinder Singh v. Narain Singh, [2023 SCC OnLine SC 261](#)]

Can orders be reviewed for relying on a judgment subsequently overruled by a superior Court? Supreme Court division bench delivers split verdict

While exercising its civil appellate jurisdiction, the division bench of M.R. Shah and B.V. Nagarathna J.J., passed a split verdict on 'scope of review' when a judgment, and all other subsequent judgments, following the same was overruled by a superior Court. [Read more](#)

[Govt. of NCT of Delhi v. K.L. Rathi Steels Limited, [2023 SCC OnLine SC 288](#)]

Whether a constable can be reinstated in the Police force on his acquittal in the criminal case? Supreme Court answers

In a special leave petition filed against the judgment and order passed by the Jammu and Kashmir High Court, wherein the High Court has dismissed the appeal filed by the petitioner/appellant and confirmed the order passed by the Single Bench, wherein it was held that the decision of the Director General of Police, the highest functionary in the hierarchy of police department, to consider the suitability of the appellant for induction into police force, could not be called into question, the division bench of Ajay Rastogi and Bela M. Trivedi, JJ. upheld the impugned order [Read more](#)

[Imtiyaz Ahmad Malla v. State of J&K, [2023 SCC OnLine SC 205](#)]

Explained| Why Supreme Court dismissed MSEDCL's appeal against compensation to Adani Power and GMR Warora Energy due to 'Change in Law'?

Exercising its civil appellate jurisdiction, the division bench of B.R. Gavai* and Vikram Nath J.J., allowed the compensation on account of a 'Change in Law' for non-supply of committed domestic coal and upheld the judgement passed by APTEL. The bench noted that on account of Change in Law, the generating companies were entitled to compensation so as to restore them to the same economic position, if the Change in Law had not occurred. [Read more](#)

[Maharashtra State Electricity Distribution Company Limited v Adani Power Maharashtra Limited, [2023 SCC OnLine SC 233](#)]

Mass Religious Conversion case: Supreme Court stays arrest of SHUATS Vice chancellor and Director

In a special leave petition against the judgment and order of Allahabad High Court, wherein the Court rejected the anticipatory bail plea of Vice Chancellor of Sam Higginbottom University of Agriculture, Technology and Sciences ('SHUATS') Dr. Rajendra Bihari Lal and Institute's Director Vinod Bihari Lal for the offences under Sections [153-A](#), [506](#), [420](#), [467](#), [468](#), [471](#) of the [Penal Code, 1860](#) and Sections [3](#) and [5\(1\) U.P. Prohibition of Unlawful Conversion of Religion Act, 2021](#), the full bench comprising of Dr. DY Chandrachud, CJI., PS Narasimha and J.B Pardiwala, JJ. has stayed the arrest of Dr. Rajendra Bihari Lal and Vinod Bihari Lal. [Read more](#)

[Vinod Bihari Lal v State of U.P., [2023 SCC OnLine SC 235](#)]

Banks must hear borrowers before classifying their accounts as fraud as it may lead to its 'civil death': Supreme Court

In a case where the Reserve Bank of India (Frauds Classification and Reporting by Commercial Banks and Select FIs) Directions 2016 was under challenge on the ground that no opportunity of being heard is envisaged to borrowers before classifying their

accounts as fraudulent, the bench of Dr DY Chandrachud,* CJ and Hima Kohli, J, has held that while no opportunity of being heard is required before an FIR is lodged and registered, the principles of natural justice should be necessarily read into the provisions of the Master Directions on Frauds, to save it from the vice of arbitrariness. [Read more](#)

[State Bank of India v. Rajesh Agarwal]

Explained| Supreme Court's verdict on prospective applicability of MHA Notification restricting OCI cardholders from competing with Indian Citizens in NEET

In a batch of petitions by Overseas Citizens of India ('OCI') cardholders seeking parity with Non-Resident Indians ('NRIs') and thereby Indian citizens for admission to National Eligibility cum Entrance Test ('NEET') and like exams withdrawn through a notification, the Division Bench of A.S. Bopanna* and C.T. Ravikumar, JJ. held that notification dated 4-03-2021 shall have prospective effect and that the petitioners shall be entitled to rights and privileges conferred on them through earlier notifications. [Read more](#)

[Anushka Rengunthwar v. Union of India, [2023 SCC OnLine SC 102](#)]

Supreme Court sets aside Orissa HC order against Lokayukta's direction to conduct preliminary inquiry against MLA; says Natural Justice principles not followed

In the appeals challenging judgment of the Division Bench of Orissa High Court setting aside the order of Odisha Lokayukta directing the Directorate of Vigilance to conduct a preliminary inquiry under Section 20(1) of the [Odisha Lokayukta Act, 2014](#) ('2014 Act') and submit a report in furtherance of a complaint indicating allegations of corruption against Pradeep Kumar Panigrahi, a Member of the Legislative Assembly ('MLA'), the Division Bench of Ajay Rastogi* and Bela M. Trivedi, JJ. held that the High Court committed manifest error violating the principles of natural justice, and therefore, set aside the impugned judgment and order. [Read more](#)

[Odisha Lokayukta v. Pradeep Kumar Panigrahi, [2023 SCC OnLine SC 175](#)]

Wildlife Protection

Supreme Court refuses to relax wildlife declaration time under Wild Life (Protection) Act, 1972; upholds Kerala High Court Division Bench's decision

In a Civil Appeal challenging the Kerala High Court Division Bench's judgment and order setting aside the Single Judge's decision refusing to allow any relaxation under Section 40 of the [Wild Life \(Protection\) Act, 1972](#) and Declaration of Wild Life Stock Rules, 2003 regarding declaration of custody or possession of any captive animal or animal article, Division Bench of M.R. Shah and Manoj Mishra, JJ. refused to interfere with the Division Bench's order and dismissed the appeal. [Read more](#)

[Vishalakshi Amma v. State of Kerala, [2023 SCC OnLine SC 292](#)]

Protection of Wild/Captive Elephants| Supreme Court empowers High-Powered Committee constituted by Tripura High Court; extends jurisdiction to PAN India

In a Miscellaneous Application seeking clarification of Court's order restricting transfer/sale/gift/entrustment of elephants being confined to Karnataka, the Division Bench of Krishna Murari and Ahsanuddin Amanullah, JJ. referred to other PILs filed before various High Courts and upheld the Tripura High Court's decision of constituting a High-Powered Committee and extended its powers across the Country in public interest and for advancement of the cause of welfare, care and rehabilitation of wild animals.

[**Read more**](#)

[Muruly M.S. v. State of Karnataka, [2023 SCC OnLine SC 224](#)]

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