Vol I, Issue 03/25

Tri-Monthly Newsletter

(July 2025 – September 2025)

JUDICIAL ACADEMY, JHARKHAND

August 2025

FROM THE DESK OF THE JUDICIAL ACADEMY, JHARKHAND

We are delighted to present the latest edition of the Tri-Monthly Newsletter of the Judicial Academy, Jharkhand. This publication serves as both a record of the Academy's academic endeavours and a testament to its enduring commitment to judicial learning, professional development, and institutional strengthening.

During the past quarter, the Academy organized a series of focused training programmes and workshops covering key areas of judicial functioning and court administration. These included the Workshop on Disposal of Matrimonial Cases (W-02), several Refresher Training Programmes on Criminal Laws for Civil Judges (Senior and Junior Divisions), and Sensitization-cum-Refresher Programmes on Criminal Laws. Special training sessions were also conducted for High Court Assistants, Court Staff, and Advocates/Advocates' Clerks on e-Courts operations, CIS applications, and paperless procedures. In addition, the State-Level Stakeholders Consultation on Safeguarding the Girl Child and a Workshop on Labour Laws for Presiding Officers of Labour Courts, District Judges, and Labour Department officials were held. The quarter also featured Online Computer Skill Enhancement Programmes (Level I & II) for District Judges, aimed at strengthening digital competence within the judiciary.

This edition encapsulates the key highlights of these initiatives, presenting concise summaries of academic deliberations, expert perspectives, and practical insights shared during each programme. It is our hope that the newsletter will serve as a valuable reference for members of the judicial fraternity and contribute meaningfully to the ongoing discourse on judicial education, capacity building, and reform.

We extend our heartfelt gratitude to the Hon'ble Chief Justice and Hon'ble Judges of the High Court of Jharkhand for their unwavering guidance and encouragement. We also express our sincere appreciation to the distinguished resource persons, senior judicial officers, and subject experts whose contributions have enriched the Academy's academic pursuits.

Above all, we acknowledge the enthusiasm and active participation of all judicial officers, court staff, and other stakeholders, whose commitment to continuous learning remains the cornerstone of the Academy's success and of judicial excellence in the State.

Happy Reading!

Judicial Academy, Jharkhand

JUSTICE TARLOK SINGH CHAUHAN
Chief Justice, High Court of Jharkhand-
cum-Patron-in-Chief
Judicial Academy, Jharkhand

MESSAGE FROM THE PATRON-IN-CHIEF

It gives me great pleasure to note the continuing progress of the Judicial Academy, Jharkhand in advancing judicial education, professional growth, and institutional excellence. The wide range of programmes organized – including workshops on matrimonial case disposal, refresher trainings on criminal law, sensitization on safeguarding the girl child, and initiatives under the e-Courts Project – reflect the Academy's holistic and forward-looking approach to capacity building.

The judiciary must constantly evolve to meet the dynamic needs of society. In this regard, the Academy's training and publication endeavours, including this tri-monthly newsletter, play a pivotal role in fostering awareness, sharing knowledge, and encouraging reflection among members of the Bench and Bar. These publications not only document the Academy's rich activities but also serve as valuable resources for judicial officiers and court staff in their pursuit of learning and professional excellence.

I commend the efforts of the Hon'ble Judge In-Charge, the Director, faculty members, and staff of the Academy for their commitment to quality training, research, and publication. I also appreciate the active participation of judicial officers, advocates, and court personnel, whose enthusiasm sustains the Academy's mission.

May this newsletter continue to be a platform for knowledge exchange, collaboration, and the collective advancement of the justice delivery system.

Warm Regards,

Tarlok Chauhan

Tarlok Singh Chauhan

JUSTICE RONGON MUKHOPADHYAY
Judge, High Court of Jharkhand-
cum-Judge-in-Charge
Judicial Academy, Jharkhand

MESSAGE FROM THE JUDGE-IN-CHARGE

It is heartening to observe that the Judicial Academy, Jharkhand continues to uphold its commitment to continuous learning and institutional development through a well-structured calendar of academic and training programmes. The recent initiatives – such as workshops on matrimonial disputes, refresher training on criminal laws, labour law sensitization and technology-driven e-Courts capacity building – reflect the Academy's integrated approach to addressing both substantive and procedural aspects law.

Equally commendable is the Academy's emphasis on documentation and dissemination of knowledge through its regular publications, particularly the tri-monthly newsletter. This publication serves as a bridge between the Academy and the judicial fraternity, recording valuable insights, best practices, and innovative learning experiences from across the State. Such initiatives enrich the intellectual environment and contribute significantly to professional development and institutional memory.

I extend my appreciation to the Director and the team of the Academy for their dedication, and to all participants for their keen engagement. I am confident that the Academy's sustained efforts – both in training and publication – will continue to strengthen the justice system and promote a culture of excellence.

Warm Regards,

Justice Rongon Mukhopadhyay

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SHRI RAJESH SHARAN SINGH
Director
Judicial Academy, Jharkhand

MESSAGE FROM THE DIRECTOR

I am extremely delighted to present the third edition of the Judicial Academy, Jharkhand's tri-monthly newsletter, highlighting the diverse academic and training conducted during the months of July to September 2025.

This quarter witnessed a dynamic series of programmes reflecting the Academy's unwavering commitment to judicial education, institutional capacity-building, and professional excellence. The Academy organized Refresher Training Programmes on Criminal Laws for Civil Judges (Senior and Junior Divisions), Workshops on Matrimonial Case Disposal. Alongside these, several technology-driven initiative such as e-Courts Training for Advocates and Adovates' Clerks and Computer Skill Enhancement Programmes for Court Staff were successfully conducted across the State. Each of these programmes aimed to address contemporary legal challenges while strangthening the procedural and ethical foundations of judicial functioning.

I express my sincere gratitude to the Hon'ble Chief Justice and the Hon'ble Judge In-Charge for their constant guidance, encouragement, and vision, which continue to steer the Academy's endeavours. I also take this opportunity to acknowledge the tireless efforts of the faculty members, administrative team, and resource persons, whose contributions ensure the success of every academic initiative.

A special note of appreciation is due to the Research Scholars of the Academy for their meticulous work in compiling, editing, and curating this edition of the newsletter. Their efforts have made this publication not only an informative record of recent activities but also a valuable reference for members of the judicial fraternity.

It is my earnets hope that this edition continues to serve as a platform for sharing insights, fostering reflection, and inspiring a culture of continuous improvement within th justice delivery system.

Warm Regards,

19/10/25.

Rajesh Sharan Singh

Workshop on Disposal of Matrimonial Cases (W-02)

A Workshop on the Disposal of Matrimonial Cases was held on 5th July 2025, focusing on contemporary issues and practical challenges faced by Family Courts. Designed specifically for Principal Judges and Additional Principal Judges of Family Courts, the workshop served as an important forum for enriching jurisprudential understanding and enhancing the efficiency of family law adjudication.

The workshop commenced with an insightful session on “Evolving Views on Marriage and Divorce”, delivered by Ms. Geeta Luthra, Senior Advocate, Supreme Court of India. The session delved into the dynamic nature of marital relationships in modern society and the legal system’s response to evolving social norms. Ms. Luthra reflected on judicial trends in interpreting grounds for divorce, the tension between tradition and transformation in matrimonial law, and the need for sensitivity in adjudicating personal relationships.

In the second session, Ms. Luthra continued her engagement with a comprehensive discussion on “Maintenance and Alimony – Interim vis-à-vis Permanent – and Execution of Orders Granting Maintenance”. She provided an analytical overview of the statutory provisions under various personal laws and the Criminal Procedure Code, addressing common issues related to quantification, enforceability, and procedural delays. Emphasis was laid on the need for a balanced and context-sensitive approach to maintenance to ensure justice for all parties involved.

The third session was led by Hon'ble Dr. Justice S. Vimla, Judge (Retd.), Madras High Court, who addressed "Key Challenges before the Family Court". Drawing from her judicial experience, Justice Vimla highlighted practical difficulties such as case backlog, emotional volatility of litigants, misuse of legal provisions, and systemic delays. She emphasized the importance of a judge's role in facilitating resolution while maintaining judicial neutrality, and shared effective strategies for courtroom management and litigant counselling.

In the fourth and final session, Justice Vimla spoke on "Determination of the Best Interest of the Child in Family Disputes—Visitation Rights and Shared Custody". The discussion revolved around the paramount importance of child welfare, legal standards governing custody arrangements, and the nuanced role of the court in ensuring a stable and nurturing environment for children. Justice Vimla stressed the need for evolving child-friendly practices and incorporating psychological assessments into custody determinations.

The workshop provided an invaluable platform for judicial officers to discuss practical difficulties, share experiences, and reflect on recent legal developments. Through a series of interactive sessions, the programme aimed to enhance the quality of decision-making in matrimonial matters and promote timely, just, and empathetic resolution of family disputes.

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Refresher Training on Criminal Laws for Civil Judges (Sr. Div.)-Course No. R-6

A Workshop on the Disposal of Matrimonial Cases was held on 5th July 2025, focusing on contemporary issues and practical challenges faced by Family Courts. Designed specifically for Principal Judges and Additional Principal Judges of Family Courts, the workshop served as an important forum for enriching jurisprudential understanding and enhancing the efficiency of family law adjudication.

The first two sessions were conducted by Hon'ble Mr. Justice Ananda Sen, Judge, High Court of Jharkhand, Ranchi. He addressed the evolution of bail jurisprudence in light of the Constitution and the new criminal law regime, highlighting the shifting focus towards safeguarding personal liberty while maintaining procedural discipline. He emphasized the need for strict adherence to the guidelines laid down by the Hon'ble Supreme Court in Satyendra Kumar Antil v. CBI [(2022) 10 SCC 51], and explained their practical application in routine bail hearings. He also discussed the practice and procedure relating to cognizance of offences by criminal courts, underscoring the importance of statutory compliance and judicial discretion at the pre-trial stage.

In the third session, Sri M.A. Niyazi, Advocate, Delhi High Court, delivered an insightful lecture on the role of the court during the recording of evidence, with a focus on ensuring fairness and neutrality. He explained how judges

can play a proactive role in managing courtroom proceedings and identifying contradictions in prior statements, without compromising the rights of the accused.

The fourth session, also conducted by Sri M.A. Niyazi, dealt with the inquisitorial role of judges under Section 168 of the Bharatiya Suraksha Adhiniyam (BSA) and the recording of the statement of the accused under Section 351 of the BNSS. He emphasized that the judicial function extends beyond passive adjudication and includes an active quest for truth, especially under the reformed legal structure.

The fifth session featured Sri Ravi Shankar Shukla (I.A.S.), Excise Commissioner, Ranchi, who provided a brief yet comprehensive overview of the legal regime governing mining offences. He explained key provisions under the Mines and Minerals (Development and Regulation) Act, 1957, the Jharkhand Minor Mineral Concession Rules, 2004, and the Jharkhand Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2017. The session highlighted the judiciary's role in regulating, compounding, confiscating and adjudicating illegal mining cases.

The sixth and concluding session was conducted by Hon'ble Mr. Justice Gautam Kumar Choudhary, Judge, High Court of Jharkhand, who elaborated on the appreciation of evidence in criminal trials. He focused on the concept of burden of proof, standard of proof, and the legal implications of the "beyond

reasonable doubt" principle. His presentation stressed the need for a reasoned and balanced approach in evaluating testimony and evidence, ensuring both fairness and finality in criminal adjudication.

The training programme provided a significant opportunity for participating judges to strengthen their doctrinal understanding, refine courtroom practices, and stay updated with recent judicial pronouncements and legislative reforms. Through interactive discussions and expert guidance, the workshop aimed to promote judicial efficiency, fairness, and adherence to constitutional values in the administration of criminal justice.

Sensitization Workshop-Cum-Refresher Training Programme on Criminal Laws

The Judicial Academy, Jharkhand organized a Sensitization Workshop-cum-Refresher Training Programme on Criminal Laws on 26th July 2025 at Ranchi, which was attended by Civil Judges (Sr. Division), Public Prosecutors, Investigating Officers/Supervisory Officers (Inspectors and Dy.S.Ps.), and Panel Lawyers of HCLSC. The theme of the programme, "Paradigm of Personal Liberty vis-à-vis Growing Jurisprudence of Bail", sought to address the evolving legal landscape of bail jurisprudence through an interactive platform involving members of the judiciary, public prosecutors, investigating officers, and legal aid panel lawyers.

The day commenced with the lighting of the lamp ceremony, symbolizing the dispelling of ignorance through knowledge, followed by the presentation of mementoes to dignitaries. Subsequently, the book "Bail – Comparative Study of CrPC 1973 and BNSS 2023", prepared by the Judicial Academy, was formally released to provide participants with a ready reference for comparative analysis of the old and new bail provisions.

In the Welcome Address, Hon'ble Mr. Justice Rongon Mukhopadhyay, Judge, High Court of Jharkhand-cum-Judge-In-charge, Judicial Academy, Jharkhand extended greetings to all dignitaries and participants, making special mention of the Chief Guest, Hon'ble Mr. Justice Joymalya Bagchi, Judge, Supreme Court of India. Justice Mukhopadhyay underscored the timeliness of the theme in light of recent legislative changes and judicial trends, acknowledging Justice Bagchi's notable contributions to bail jurisprudence and protection of custodial rights.

The Inaugural Address was delivered by Hon'ble Mr. Justice Sujit Narayan Prasad, Judge, High Court of Jharkhand, who emphasized that bail, while procedural in nature, directly touches the fundamental right to personal liberty. He called upon judicial officers to decide bail applications with sensitivity, keeping in mind the socio-economic realities of litigants, particularly the marginalized.

This was followed by the Address by Hon'ble Mr. Justice Tarlok Singh Chauhan, Chief Justice, High Court of Jharkhand-cum-Patron-In-Chief, Judicial Academy, Jharkhand who reiterated that liberty must be manifested in judicial practice and not remain a mere constitutional abstraction. Referring to landmark rulings such as Arnesh Kumar v. State of Bihar and Satender Kumar Antil v. CBI, he urged the adoption of proportionality, fairness, and due process in bail adjudication.

The Keynote Address was delivered by the Chief Guest, Hon'ble Mr. Justice Joymalya Bagchi, Judge, Supreme Court of India, who stressed that safeguarding liberty requires a coordinated approach by courts, investigating agencies, and public prosecutors. He cautioned against the influence of media trials, which often compromise the presumption of innocence, and emphasized the need for consistency in bail orders, strengthening of the magistracy, and institutional cooperation.

The Technical Session commenced with Hon'ble Mr. Justice Joymalya Bagchi, Judge, Supreme Court of India, as the Speaker and Hon'ble Mr. Justice Ananda Sen, Judge, High Court of Jharkhand-cum-Member, Governing Body, Judicial Academy, Jharkhand as the co-speaker providing a detailed exposition on the evolution of bail jurisprudence, doctrinal principles, and challenges faced in judicial application. He discussed key Supreme Court pronouncements including Arnesh Kumar, Satender Kumar Antil, and Policy Strategy on Bail, In Re, while highlighting procedural innovations such as digital transmission of bail orders, use of house arrest, and consideration of victim participation. Comparative perspectives from the UK, Canada, and Australia were also discussed, along with bail under special statutes like NDPS, UAPA, and PMLA, stressing the necessity of procedural safeguards and expeditious trials.

The programme concluded with the Vote of Thanks by Hon'ble Mr. Justice Ambuj Nath, Judge, High Court of Jharkhand-cum-Member, Executive Committee, Judicial Academy, Jharkhand, who expressed gratitude to all dignitaries, resource persons, and participants. He made special acknowledgement of Justice Ananda Sen's insightful contributions to the technical session and the Academy's efforts in preparing the comparative bail law compendium.

Refresher Training Programme on Criminal Laws for Civil Judge (Senior Division) (Course No. R-07)

The first two sessions were conducted by Sri M.A. Niyazi, Advocate, Delhi High Court. The First Session began with a discussion on the Role of the Court during Recording of Evidence with emphasis on the judge's responsibility to uphold fairness and impartiality in proceedings. This was followed by deliberations on Contradictions from Prior Statements, focusing on their evidentiary significance and the manner of judicial assessment.

The Second Session addressed the Inquisitorial Role of the Judge under Section 168 of the Bharatiya Sakshya Adhiniyam (BSA) in the pursuit of truth and practical aspects of Recording the Statement of the Accused under Section 351 of the Bharatiya Nagrik Suraksha Sanhita (BNSS).

The Third Session conducted by Sri Ravi Shankar Shukla (I.A.S.), Excise Commissioner, Ranchi, covered special legislations relating to mineral resources, including a brief overview of the Mines and Minerals (Development and Regulation) Act, 1957, the Jharkhand Minor Mineral Concession Rules, 2004, and the Jharkhand Minerals Prevention of Illegal Mining, Transportation and Storage Rules, 2017.

The Fourth and Final Session was taken by Sri Dileep Kumar Yadav (I.F.S.), Divisional Forest Officer, Khunti, which concluded the programme with a discussion on Forest Law and the Wild Life (Protection) Act, addressing

statutory provisions, enforcement mechanisms, and judicial intervention in conservation efforts.

The two-day refresher course served as a vital capacity-building initiative for Civil Judges (Sr. Div.), aimed at keeping the judiciary aligned with ongoing legal reforms and jurisprudential developments. The interactive nature of the sessions, combined with the depth of expertise shared by the resource persons, provided the participants with enhanced clarity on complex areas of criminal law and improved their ability to deliver timely and reasoned judgments in criminal trials.

OTHER PROGRAMMES

One-Day Training of Advocates/Advocates' Clerks on e-Courts Programme (ECT_7_2025)

In furtherance of the directions of the Hon'ble eCommittee, Supreme Court of India, and under the guidance of the Hon'ble Judge In-Charge, Judicial Academy, Jharkhand, the Academy organized a one-day physical training programme titled "Training of Advocates/Advocates' Clerks on e-Courts Programme (ECT_7_2025)" across all District Judgeships between 13th and 20th July 2025.

The training was conducted by Advocate Master Trainers or, in their absence, by the District System Administrators (DSAs), and covered key components from both ECT-4 and ECT-7, focusing on enhancing the use of e-Courts services and digital court infrastructure. Each District Judgeship selected 50 participants in consultation with the respective Bar Associations, ensuring representation from Sub Divisions as well.

The event was successfully conducted across the State with active and enthusiastic participation from Advocates and their Clerks. This initiative is a significant step toward promoting digital proficiency within the legal fraternity

One-Day Refresher Training Programme for Assistants of the High Court

As per the approved Academic Calendar 2025–2026, the Judicial Academy, Jharkhand successfully organised a One-Day Refresher Training Programme for Assistants of the High Court of Jharkhand on 27th July 2025. The programme commenced with registration and group photography, followed by a series of technical sessions conducted by Sri Santosh Kumar, Assistant Registrar, and Sri Santosh Kumar Agrawal, Deputy Registrar, High Court of Jharkhand.

The training covered important subjects including filing procedures, e-filing, online and physical filing, issuance of certified copies, civil, criminal and writ stamp reporting, procedures relating to notices, and inspection of records. Participants were also apprised of leave rules, the Jharkhand High Court Officers and Members of Staff (Recruitment, Conditions of Service, Conduct and Appeal) Rules, noting and drafting, and provided with an overview of departmental proceedings.

The schedule incorporated dedicated sessions for interaction and practical discussions, ensuring that the content was both relevant and directly applicable to the participants' day-to-day responsibilities. The programme was designed to strengthen procedural knowledge, improve administrative efficiency, and enhance the overall professional competence of the Assistants, thereby contributing to the smooth functioning of the judicial system.

Refresher Training Programme on Criminal Laws held on 2nd & 3rd August 2025

The Judicial Academy, Jharkhand, successfully organised a Two-Day Refresher Training Programme on Criminal Laws on 2nd and 3rd August 2025 as part of its continuous endeavour to enhance judicial skills, procedural knowledge, and subject-matter expertise. The programme brought together experienced resource persons from the judiciary, legal profession, and allied fields to deliver in-depth sessions on critical aspects of judicial work.

The programme commenced with Registration and Group Photography, setting a congenial and collaborative tone for the training. The inaugural technical session, "The Art and Craft of Writing Judgments/Judicial Orders", was delivered by Sri Rajesh Sharan Singh, Director, Judicial Academy, Jharkhand. He emphasised the importance of clarity, precision, and logical reasoning in judicial writing, underscoring that well-articulated orders not only reflect judicial competence but also strengthen public trust in the justice delivery system.

This was followed by two detailed sessions by Sri H. S. Sharma, District Judge (Retd.), Delhi Higher Judicial Service. The first, "Cognizance by a Magistrate: Meaning and Concept, Discharge, Framing of Charge, and Alteration of Charge", provided a comprehensive understanding of procedural stages under the Code of Criminal Procedure, with emphasis on the judicial mind's application at each stage. The second, "Role of Judges During Recording of Evidence and Recording of Statement under Section 313 CrPC", focused on the proactive yet impartial role of judges in evidence collection, ensuring procedural fairness, and eliciting truthful statements from the accused in compliance with statutory mandates.

The final session of the first day, “Forest Law and Wildlife Conservation Act”, was conducted by Sri Dileep Kumar Yadav (IFS), DFO, Khunti. The discourse addressed the legal framework governing forest conservation, wildlife protection, and the interplay between environmental preservation and socio-economic considerations, with special reference to enforcement challenges in Jharkhand.

On the second day, Sri Ravi Shankar Shukla (LAS), Excise Commissioner, Ranchi, delivered an insightful session on the “Mines and Minerals (Development and Regulation) Act, 1957 along with the MMDR Amendment Act, 2021”. He elaborated on the regulatory provisions, recent legislative changes, and the role of the judiciary in ensuring lawful exploitation and conservation of mineral resources.

The concluding session, “Negotiable Instruments Act”, was led by Sri Ashutosh Anand, Additional Advocate General, Jharkhand. He provided an in-depth analysis of the Act, focusing on the law relating to dishonour of cheques, presumptions under the statute, and the latest judicial pronouncements aimed at expeditious disposal of cases under the NI Act.

The programme culminated with an interactive discussion, enabling participants to seek clarifications and share perspectives. The sessions collectively reinforced judicial officers’ proficiency, procedural discipline, and subject-specific expertise, in line with the Academy’s mission to strengthen the administration of justice in the State.

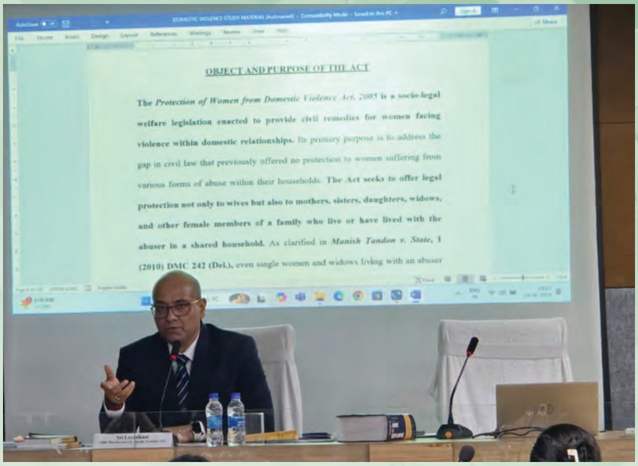
Refresher Training on Criminal Laws for Civil Judges (Jr. Div.) – Course No. R-09

A two-day Refresher Training on Criminal Laws was organized on 23rd and 24th August, 2025, catering to Civil Judges (Junior Division), with the objective of equipping them with practical insights into the newly enacted criminal law codes and other frequently invoked legislations at the trial court level. The programme sought to enhance the participants' understanding of procedural timelines, evidentiary reforms, and the application of special laws in day-to-day judicial work.

The first and second sessions were conducted by Sri Anil Kishore Yadav, I.P.S., Director, Central Academy for Police Training (CAPT), Bhopal, M.P. He provided an overview of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), with special focus on statutory timelines, pre-trial and post-trial provisions concerning inquiry, framing of charges, and examination of witnesses. He also elaborated on the concept of trial in absentia, highlighting its safeguards and potential challenges. In continuation, he dealt with the Bharatiya Nyaya Sanhita, 2023 (BNS) and the Bharatiya Sakshya Adhiniyam, 2023 (BSA), explaining their key provisions and their interplay in the criminal justice process.

The third session was conducted by Sri Satyakam Priyadarshi, Additional Director, Judicial Academy, Jharkhand, who introduced the Arms Act, 1959, explaining its essential provisions, main ingredients of offences, and the degree of proof required for conviction. He emphasized the importance of careful scrutiny of evidence in arms cases, which often turn on recovery, possession, and licensing aspects.

The fourth session, taken by Sri Laxmikant, Additional Director, Judicial Academy, Jharkhand, offered a critical analysis of the Protection of Women from Domestic



Violence Act, 2005. He discussed the objectives and scope of the legislation, its interface with criminal law, and the challenges faced by trial courts in granting interim reliefs, residence rights, and protection orders while balancing competing interests.

The fifth session on the following day was delivered by Sri Ravi Shankar Shukla (I.A.S.), Excise Commissioner, Ranchi, who gave an overview of the Mines and Minerals (Development and Regulation) Act, 1957 along with the Amendments of 2021. He explained the statutory framework regulating mining activities, the powers of the authorities, and the judicial role in adjudicating illegal mining cases, particularly in a mineral-rich state like Jharkhand.

The sixth and concluding session was conducted by Sri Ashutosh Anand, Additional Advocate General, Jharkhand, who spoke on the Negotiable Instruments Act. He analyzed the principles underlying Section 138 and connected provisions, highlighted recent judicial pronouncements, and discussed effective case management techniques for speedy disposal of cheque dishonour cases, which constitute a significant portion of the trial court docket.

The training programme provided the participants with valuable exposure to the newly enacted criminal law codes and practical guidance on special legislations that frequently arise in trial courts. Through expert lectures and interactive sessions, the workshop aimed to strengthen judicial capacity, promote efficiency in trial management, and reinforce adherence to fairness and statutory compliance in the administration of criminal justice.

State Level Stakeholders Consultation on Safeguarding The Girl Child

The Juvenile Justice-cum-POCSO Committee of the High Court of Jharkhand, in collaboration with the Department of Women, Child Development and Social Security, Government of Jharkhand, and UNICEF Jharkhand, organized a State Level Stakeholders Consultation on “Safeguarding the Girl Child: Toward a Safer and Enabling Environment for her in India” on 30th August 2025 at the Dr. APJ Abdul Kalam Auditorium, Judicial Academy, Ranchi. The programme brought together members of the judiciary, senior government officials, law enforcement authorities, representatives of UNICEF, civil society organizations, and grassroots change-makers to deliberate on strengthening protective and enabling mechanisms for the girl child.

The inaugural session began with the lighting of the lamp ceremony, followed by the felicitation of dignitaries. On this occasion, a reference book titled “Protecting Childhood: Towards a Safer and Enabling Environment” was formally released to provide valuable guidance and reference material on the theme.

In the Welcome Address, Hon’ble Mr. Justice Rajesh Shankar, Chairperson, JJ-cum-POCSO Committee, highlighted the significance of collaborative efforts in addressing issues of child protection, particularly with regard to the rights of girl children.

The Chief Guest, Hon’ble Mr. Justice Tarlok Singh Chauhan, Chief Justice of the High Court of Jharkhand, in his Inaugural Address, emphasized the need for genuine care and sensitivity towards girl children. He underscored that the vision of true development in Jharkhand can only be realized when adequate care, protection, and opportunities are extended to juveniles in general, and girl children in particular, enabling them to blossom without fear.

Hon’ble Mr. Justice Sujit Narayan Prasad, Judge, High Court of Jharkhand and Executive Chairman, JHALSA, as the Guest of Honour, underlined the judiciary’s proactive role in ensuring access to justice for vulnerable children and bridging systemic gaps in protective mechanisms.

The Technical Sessions witnessed detailed deliberations led by Hon’ble Mr. Justice Rajesh Shankar and Hon’ble Mrs. Justice Anubha Rawat Choudhary, who stressed the necessity of an inclusive and collaborative approach involving all stakeholders to create an environment free from fear and conducive to the growth of juveniles and girl children. Hon’ble Mr. Justice Sanjay Prasad, Member of the POCSO Committee, focused on the challenges of child marriage, advocating a preventive, awareness-based, and community-driven strategy. He also highlighted the critical role of the judiciary in addressing violence against children and ensuring effective linkage between victims and support services.

Ms. Alka Tiwari, Chief Secretary, Government of Jharkhand, identified pressing challenges such as human trafficking, rising POCSO cases, and incidences of child marriage below 15 years. She outlined the government’s ongoing collaborative measures with civil society organizations and local bodies to address these issues.

Dr. Kaninika Mitra, Chief of Field Office, UNICEF Jharkhand, emphasized the persisting gender-based disparities in education and health, as well as the urgent need for psychological and mental health support systems. She called upon all stakeholders to unite in building an inclusive and enabling environment for the girl child.

A key highlight of the event was a panel discussion featuring young change-makers from various districts of Jharkhand, who shared their real-life experiences in preventing child marriage, combating child abuse, and promoting education for girls. Their efforts were recognized and felicitated by the dignitaries, serving as an inspiration for all participants.

The day-long consultation also saw participation from Shri Rajeev Ranjan, Advocate General, Shri Anurag Gupta, DGP Jharkhand, Secretaries of various departments, judicial officers from across the State, senior police officials, members of the Child Welfare Committee (CWC), and District Social Welfare Officers (DSWOs).

The programme concluded with a Vote of Thanks delivered by Shri Manoj Kumar, Secretary, Department of Women, Child Development and Social Security, who expressed gratitude to all dignitaries, partners, and participants for their valuable contributions to the success of the consultation.

OTHER PROGRAMMES

One-Day Refresher Training Programme for Assistants of the High Court

As per the approved Academic Calendar 2025–2026, the Judicial Academy, Jharkhand successfully conducted a One-Day Refresher Training Programme for Assistants of the High Court of Jharkhand on 3rd August 2025. The programme commenced with registration and group photography, followed by structured sessions led by Sri Santosh Kumar, Assistant Registrar, High Court of Jharkhand, and Sri Santosh Kumar Agrawal, Deputy Registrar, High Court of Jharkhand.

The training sessions addressed a wide range of important subjects, including filing procedures, registration and listing of cases, processes for e-filing (both online and physical), issuance of online certified copies, and the application of digital signatures by officers and staff. Further, the participants received guidance on civil, criminal, and writ stamp reporting, procedures for issuing certified copies, functioning of Lawazima Boards, inspection of records, and handling of notices. The final session dealt with leave rules, the Jharkhand High Court Officers and Members of Staff (Recruitment, Conditions of Service, Conduct and Appeal) Rules, noting and drafting, along with an overview of departmental proceedings.

The schedule was thoughtfully designed to include interactive and practical components, enabling participants

to relate the learning to their day-to-day responsibilities. The programme served to reinforce procedural understanding, improve administrative capabilities, and enhance the overall professional proficiency of the Assistants, thereby supporting the effective functioning of the judicial system.

Refresher Computer Training Programme for Court Staff at District Headquarters (ECT_9_2025)

In compliance with the directions of the Hon'ble eCommittee, Supreme Court of India, and under the supervision of the Hon'ble Judge In-Charge, Judicial Academy, Jharkhand, a one-day Refresher Computer Training Programme for Court Staff (ECT_9_2025) was successfully conducted across all District Judgeships on 24th August 2025.

The training was specifically designed as a refresher module for Court Staff, Nazir/Naib-Nazir, Process Servers, and other supporting personnel, including those posted in Sub-Divisions. The programme was delivered in offline mode by the District System Administrators (DSAs) and CIS-trained staff, who were designated as trainers.

The sessions revisited and reinforced the fundamental skills imparted during earlier training cycles, with special emphasis on:

- Efficient use of the Case Information System (CIS) for day-to-day court work.
- Advanced features and troubleshooting aspects of digital court processes.
- Strengthening e-filing and data management practices.
- Ensuring accuracy, speed, and uniformity in the adoption of e-Courts services.

The refresher training not only refreshed the participants' understanding of basic computer operations but also provided practical exposure to handling new updates and challenges in court digitization.

The programme witnessed active and enthusiastic participation of court staff across the State, reflecting their commitment to enhancing digital competence. It marked yet another step forward in the e-Courts Capacity Building Programme spearheaded by the Judicial Academy, Jharkhand, towards ensuring transparency, efficiency, and accessibility in the justice delivery system at the grassroots level.

Workshop on Labour Laws for Presiding Officers of Labour Courts, District Judges, and Officers of Labour Department (Course No. W-3)

The Judicial Academy, Jharkhand, conducted a Workshop on Labour Laws on 20th September, 2025 (Course No. W-3), aimed at enhancing the understanding of key labour legislation and strengthening the capacity of Presiding Officers of Labour Courts, District Judges, and officers of the Labour Department. The workshop provided a platform for judicial officers and labour officials to deliberate on contemporary challenges in labour law adjudication and administration.

The inaugural session on the Role of Courts in Protecting the Constitutional Rights of Workmen was delivered by Hon'ble Mr. Justice Anil Kumar Choudhary, Judge, High Court of Jharkhand. His session highlighted the

judiciary's critical role in safeguarding workers' rights and ensuring compliance with constitutional mandates in industrial relations.

Sri Vikash Sinha, Advocate, High Court of Jharkhand, led the session on Proceedings under the Industrial Disputes Act and Disposal in Labour Courts, followed by discussions on the Execution of Awards. His deliberations focused on procedural nuances, best practices for effective adjudication, and practical guidance for implementing Labour Court orders efficiently.

Sri Gyanendra Karan, Principal Legal Counsel, Tata Steel Ltd, presented on the Concept of Wages under the Payment of Wages Act, Minimum Wages Act, and Employees Compensation Act. He provided participants with insights into statutory interpretation, practical applications, and emerging challenges in wage-related disputes.

The workshop also featured a session by Sri Shivendra Kumar, Deputy Director, E.S.I.C., Ranchi, on the Employee

State Insurance Act, covering its applicability, impact, and challenges before the Employees Insurance Court. His session equipped participants with practical knowledge on social security laws and procedural considerations in handling cases under the Act.

The programme witnessed active participation from judicial officers and labour officials, fostering a collaborative learning environment. The workshop emphasized the Judicial Academy's commitment to continuous professional development, enhancing legal understanding, and promoting effective adjudication in the field of labour law.

OTHER PROGRAMMES

Online Computer Skill Enhancement Programme – Level I & Level II, For District Judges Through SJA

The Judicial Academy, Jharkhand, organized an Online Computer Skill Enhancement Programme – Level I & Level II for the District Judges of the State on 13th September, 2025 through the State Judicial Academy (SJA). The programme was conceptualized to strengthen digital competence among judicial officers and to familiarize them with essential and advanced computer applications relevant to the justice delivery system. The Level I module covered the basics of computer operations including file management, MS Office utilities, e-mail communication, and safe internet practices, aimed at enhancing day-to-day efficiency in office and judicial work. The Level II module introduced advanced applications such as Case Information Systems (CIS), eCourts services, digital legal research tools, and cybersecurity awareness with practical demonstrations to ensure effective adoption. The online sessions were conducted in an interactive mode, with expert trainers providing hands-on guidance and addressing queries of participants. In his opening remarks, the Hon'ble Director of the Judicial Academy emphasized the growing importance of digital literacy for judicial officers, observing that mastery of technology not only augments efficiency but also resonates with the vision of Digital India and the e-Courts Mission Mode Project. The programme witnessed enthusiastic participation from District Judges across Jharkhand, who appreciated the Academy's structured initiative in bridging the digital gap and equipping the judiciary to meet the demands of a technology-driven justice system.

In-House Discussion on Law and Latest Judicial Trends

The Judicial Academy, Jharkhand, continues its programme of quarterly In-House Discussions on Law and Latest Judicial Trends at District Headquarters and Sub-Divisions, presided over by the Principal District Judges and Senior District & Additional Sessions Judges for Judicial Officers. The objective of these discussions is to update Judicial Officers on recent legal developments, amendments in law, and judicial precedents, promoting active engagement in continuous judicial education. During the latest quarterly discussions held between 15th and 20th September, 2025, the landmark cases Sangita Sinha v. Bhawana Bhardwaj & Others, 2025 SCC Online SC 723, and Jamin and Another v. State of U.P. and Another, 2025 SCC Online SC 506 were thoroughly examined and deliberated upon by the participating Judicial Officers. The respective judgeships submitted detailed reports summarizing the discussions to the Academy within the prescribed timeframe. These discussions continue to foster continuous learning, enhance legal awareness, and strengthen judicial proficiency across Jharkhand.

Refresher Training Programme for Assistants of the High Court (Course No. Ha-03)

The Judicial Academy, Jharkhand, conducted a Refresher Training Programme for the Assistants of the High Court of Jharkhand on 14th September, 2025 (Course No. HA-03). The training was aimed at updating the participants with the latest procedures, rules, and practices to enhance efficiency and effectiveness in High Court administration.

The programme commenced with the inaugural technical session by Sri Santosh Kumar, Assistant Registrar, High Court of Jharkhand, who delivered the first set of sessions covering Filing Procedures, Registration and Listing of Cases, Procedure for E-Filing (both online and physical), Online Certified Copies, and the use of Digital Signatures by Officers and Staff. These sessions emphasized the importance of accuracy, transparency, and technological adaptation in filing and documentation processes.

In the subsequent session, Sri Santosh Kumar further elaborated on Civil Stamp Reporting, Criminal Stamp Reporting, and Writ Stamp Reporting. The discussions provided valuable insights into correct reporting practices, reducing procedural errors and ensuring compliance with prescribed formats.

The post-lunch technical sessions were conducted by Sri Santosh Kumar Agrawal, Deputy Registrar, High Court of Jharkhand, who addressed participants on the Procedure of Issuance of Certified Copies, functioning of Lawazima Boards, Inspection of Records, and Procedures relating to Notices. These discussions provided much-needed clarity on key administrative functions and their relevance to efficient justice delivery.

In the concluding session, Sri Santosh Kumar Agrawal also guided the participants on Leave Rules, the Jharkhand High Court Officers and Staff (Recruitment, Conditions of Service, Conduct and Appeal) Rules, Noting & Drafting, and an overview of Departmental Proceedings. These topics were aimed at strengthening procedural understanding, administrative discipline, and accountability among the participants.

The training witnessed active and enthusiastic participation by Assistants of the High Court, who benefitted from the practical orientation of the sessions. The programme highlighted the Judicial Academy's commitment to building institutional capacity through systematic refresher courses, ensuring that officers and staff remain updated with evolving rules, practices, and digital advancements.

E-Courts Programme & Cis Training for Trainers – Advocates / Advocates' Clerks (Course No. Tot-1)

The Judicial Academy, Jharkhand, successfully conducted the e-Courts Programme & CIS Training for Trainers (TOT-1) for advocates and advocates' clerks on 14th September, 2025. The programme was designed to develop a pool of master trainers who could facilitate capacity building in e-Courts services and Case Information System (CIS) applications, thereby contributing to the digital transformation of the judicial system.

The training began with registration and group photography, followed by an orientation session led by Sri Sajid Akhtar and Sri Bhaskar Kumar, Assistant-cum-DSAs, Civil Court, Ranchi. The session focused on the introduction of trainers, the objectives of the training, and the concept of change management, including process re-engineering and automation techniques adopted to create a paperless court environment. The role of continuous training, sensitization of stakeholders, and the critical contribution of advocates and their clerks as "game changers" in judicial e-initiatives were emphasized.

Subsequent sessions introduced participants to the eCommittee and eCourts Project, covering the history of ICT in the judiciary, the National e-Governance Programme (NeGP), the structure and hierarchy of the eCommittee, the objectives of the eCourts project, and the phased implementation of the eCourts initiative. The importance of digitization, workflow management, and citizen-centric services was highlighted to familiarize participants with the broader vision of a technology-enabled judiciary.

The training also covered basics of computers, internet, and electronic documentation, including operating systems such as

MS Windows and Ubuntu-Linux, word processing software like MS Word, LibreOffice, and OpenOffice, browsers, email creation, making accessible PDFs, scanning and combining documents, and effective document management. Participants were introduced to the advantages of video conferencing and rules for its use, along with practical guidance on using eCourts services mobile applications, KIOSK services, and online payment of court fees via the State Government's eGRAS portal.

In the final session, participants received detailed hands-on training on e-filing, including registration, case filing, understanding the features and advantages of the e-filing portal, data integration with CIS, helpdesks, E-Sewa Kendras, uploading pleadings, case management, partner and client management, and State-specific eFiling rules. Practical exercises and discussions addressed doubts and clarified procedural nuances to ensure comprehensive understanding.

The programme witnessed active participation, with advocates and clerks appreciating the structured approach, practical demonstrations, and focused guidance provided by the resource persons. The Judicial Academy reaffirmed its commitment to building digital capacity in the legal fraternity, enabling the judiciary to advance towards a fully paperless, transparent, and citizen-centric justice delivery system.

INDEPENDENCE DAY

Sangita Sinha v. Bhawana Bhardwaj & Ors., 2025 SCC on Line SC 723

Bench: Justice Dipankar Datta and Justice Manmohan

Date of Judgment: 4th April 2025

The Supreme Court of India in Sangita Sinha v. Bhawana Bhardwaj & Ors. (2025 SCC OnLine SC 723) revisited the discretionary nature of specific performance under the Specific Relief Act, 1963. The judgment addresses the maintainability of a suit where the buyer, despite filing for specific performance, accepted a refund of the earnest money and failed to seek declaratory relief challenging the cancellation of the agreement. T

Parties:

- Appellant: Sangita Sinha – beneficiary under a registered Will dated 23 September 2002 executed by the original owner, Late Kushum Kumari.
- Respondent No. 1 (Plaintiff-Buyer): Bhawana Bhardwaj – entered into the disputed Agreement to Sell with the original owner.
- Respondents No. 2 & 3: Step-grandson and other legal heirs of the original seller, substituted after her demise.

Facts of the Case:

1. Late Kushum Kumari, the original defendant and the seller of the subject property, was allotted the said property by the People's Cooperative House Construction Society Limited through a registered sub-lease executed on 2nd April 1968. On 25th January 2008, an unregistered Agreement to Sell pertaining to the said property was executed between the plaintiff, Respondent No. 1 (the buyer), and the seller for a total sale consideration of ₹25,00,000 (Rupees Twenty-Five Lakhs). At the time of execution, the buyer paid a sum of ₹2,51,000 (Rupees Two Lakh Fifty-One Thousand) in cash to the seller and issued three post-dated cheques amounting to ₹7,50,000 (Rupees Seven Lakh Fifty Thousand) in aggregate.

2. It is the case of the buyer that on 11th February 2008, when she visited the property along with her husband, the tenants of the seller created a scuffle and compelled them to leave. Consequently, she issued legal notices dated 23rd February 2008 and 23rd April 2008, expressing her willingness to pay the remaining sale consideration and requesting the execution of the sale deed in her favour.

3. Upon the seller's failure to execute the sale deed, the buyer instituted a suit under the Specific Relief Act, 1963 before the Court of the Sub Judge-IV, Patna, seeking specific performance of the Agreement to Sell. This was registered as Title Suit No. 176 of 2008.

4. The seller contested the suit by filing a written statement, wherein she stated that she became aware of the said Agreement to Sell on 5th February 2008 and had immediately lodged a complaint on 6th February 2008 with the Inspector of Police-cum-Station House Officer, Kankarbagh Police Station, Patna, alleging that her signatures on the agreement had been fraudulently obtained. Furthermore, she issued a cancellation letter dated 7th February (January written in the judgement) 2008, whereby she refunded a sum of ₹2,11,000 (Rupees Two Lakh Eleven Thousand) through five demand drafts dated 7th February 2008 in lieu of the cash amount received earlier and returned two of the three post-dated cheques of ₹2,50,000 each. The Trial Court framed issues on 16th December 2008.

5. During the pendency of the proceedings, the seller passed away. The step-grandson of the seller, Respondent No. 3, was impleaded as substituted Defendant No. 1, and the present appellant was impleaded as Defendant No. 3 on the basis of a registered Will dated 23rd September 2002, executed by the original seller bequeathing the property in her favour.

6. Subsequently, after recording the depositions of PW-1 (Respondent No. 1 herein) and her husband (PW-2), the Trial Court framed three additional issues by its order dated 21st January 2013. The issues were reframed once again on 27th April 2018, and on the same day, judgment was delivered in favour of the buyer, directing specific performance.

7. The judgment dated 27th April 2018 and the decree dated 10th May 2018 were challenged by the appellant in First Appeal No. 83 of 2018 before the Patna High Court. The said appeal was dismissed by the High Court through its judgment dated 9th May 2024, thereby affirming the decree of the Trial Court.

8. Aggrieved by the concurrent findings, the appellant approached the Supreme Court by way of the present Special Leave Petition. While issuing notice in the matter, the Supreme

Court on 20th August 2024 directed the parties to maintain status quo with respect to the possession of the property.

Issues Before the Supreme Court:

1. Maintainability of the suit for specific performance:

o Can it be maintained when cancellation was issued before filing and no declaratory relief was sought to set it aside?

2. Readiness and Willingness:

o Did the buyer prove continuous readiness and willingness from the date of the agreement till the decree, as mandated by Section 16(c) of the Specific Relief Act, 1963?

3. Effect of Encashment of Refund:

o Does encashment of refund after filing the suit amount to acceptance of cancellation?

4. Suppression of Material Facts:

o Did non-disclosure of the cancellation letter, returned cheques, and refund demand drafts amount to suppression disqualifying equitable relief?

5. Locus Standi of the Appellant:

o Was the appellant, as a beneficiary under a prior Will, a proper party to challenge the decrees?

Submissions on Behalf of the Appellant:

Shri S.B. Upadhyay, learned senior counsel for the appellant, contended that the Agreement to Sell dated 25th January 2008 was fraudulently procured by Respondent No. 3, as the seller had signed blank papers believing them to relate to a Will executed in favour of the appellant on 23rd September 2002. Upon discovering the fraudulent agreement on 5th February 2008, the seller lodged a police complaint the next day i.e., 6th February 2008 and, on 7th February 2008, cancelled the agreement by issuing a letter enclosing five demand drafts of ₹2,11,000 towards refund of the cash component and returning two of the three post-dated cheques of ₹2,50,000 each.

The counsel highlighted that the Respondent No. 1-buyer and her husband admitted receiving these drafts and cheques in March 2008 and subsequently encashed the drafts in July 2008, after filing the suit on 5th May 2008. This act, he argued, amounted to revocation of the Agreement to Sell dated 25th January 2008 and rendered the agreement void for enforcement. Despite this, the buyer neither sought declaratory relief against the cancellation nor disclosed the receipt of refund in her plaint.

It was further submitted that the existence of a valid, subsisting agreement is a prerequisite for specific performance, as affirmed in R. Kandasamy v. T.R.K. Sarawathy (2024). The buyer also failed to prove continuous readiness and willingness under Section 16(c) of the Specific Relief Act, 1963, as her own cross-examination revealed insufficient bank balance when issuing the post-dated cheques. Her conduct, including encashment of the refund, demonstrated unwillingness to perform the contract. Reliance was placed on Mehboob-Ur-Rehman v. Ahsanul Ghani (2019) 19 SCC 415 and C.S. Venkatesh v. A.S.C. Murthy (2020) 3 SCC 280.

Submissions on Behalf of Respondent No. 1:

Mr. Mungeshwar Sahoo, learned senior counsel appearing for the Respondent No. 1-buyer, argued that the suit for specific performance was rightly decreed by the Trial Court after proper appreciation of evidence, and a sale deed was subsequently executed upon the buyer depositing ₹24,61,000 before the Trial Court. He submitted that the High Court had correctly upheld this decree and that the appellant's present challenge was merely an attempt at reappreciation of evidence, which is impermissible at this stage.

He further contended that the seller had not refunded the entire earnest money. While the buyer had paid ₹2,51,000 in cash, only ₹2,11,000 was returned through five demand drafts dated 7th February 2008, leaving ₹40,000 with the seller. Since the balance sale consideration was subsequently paid, the unilateral cancellation of the agreement was invalid in law.

According to the learned counsel, a bilateral contract cannot be unilaterally cancelled by returning the earnest money. Such cancellation can only be effected either by a court of law or through a subsequent agreement rescinding the prior contract. Permitting unilateral cancellations, he argued, would leave purchasers remediless and expose them to arbitrary interference from third parties offering higher earnest amounts.

He also emphasised that the seller had passed away before she could lead evidence to support her defence, and neither the appellant nor Respondent No. 3 deposed to substantiate the written statement filed by the seller. Thus, the defence was not proved. Finally, he challenged the appellant's locus standi, asserting that she had no right, title or interest in the property, and therefore, the findings of the Trial Court and High Court did not prejudice her in any manner.

Finding of the Supreme Court:

1. RESPONDENT NO. 1 WAS NOT WILLING TO PERFORM THE AGREEMENT TO SELL

The Court began by noting that the Respondent No. 1-buyer had paid ₹2,51,000 in cash and issued three post-dated cheques of ₹2,50,000 each at the time of executing the Agreement to Sell dated 25th January 2008. It was undisputed that she subsequently received a cancellation letter dated 7th February 2008 from the seller, enclosing five demand drafts totalling ₹2,11,000 (towards refund of the cash component) and returning two of the three post-dated cheques. The third cheque was never encashed. The buyer admitted that she received this letter before filing the suit and that she encashed the demand drafts in July 2008, after instituting the suit on 5th May 2008, without raising any objection to the partial refund.

Referring to Kamal Kumar v. Premlata Joshi (2019) 3 SCC 704 and other precedents, the Court reiterated that specific performance is a discretionary, equitable relief requiring proof of continuous readiness and willingness under Section 16(c) of the Specific Relief Act, 1963. Readiness implies financial capacity to pay, while willingness denotes a genuine intention to perform, which must be demonstrated through conduct. Mere pleadings are insufficient; the plaintiff must show an unbroken chain of readiness and willingness from the date of the agreement until the decree. The Court stated:

"17. It is trite law that 'readiness' and 'willingness' are not one but two separate elements. 'Readiness' means the capacity of the Respondent No. 1-buyer to perform the contract, which would include the financial position to pay the sale consideration. 'Willingness' refers to the intention of the Respondent No. 1-buyer as a purchaser to perform his part of the contract, which is inferred by scrutinising the conduct of the Respondent No. 1-buyer/purchaser, including attending circumstances.

18. Continuous readiness and willingness on the part of the Respondent No. 1-buyer/purchaser from the date of execution of Agreement to Sell till the date of the decree, is a condition precedent for grant of relief of specific performance. This Court in various judicial pronouncements has held that it is not enough to show the readiness and willingness up to the date of the plaint as the conduct must be such as to disclose readiness and willingness at all times from the date of the contract and throughout the pendency of the suit up to the decree."

The Court relied on a series of judgments including Gomathinayagam Pillai v. Palaniswami Nadar, Vijay Kumar v. Om Parkash, J.P. Builders v. A. Ramadas Rao, Umabai v. Nilkanth Dhondiba Chavan, Mehboob-Ur-Rehman v. Ahsanul Ghani, and C.S. Venkatesh v. A.S.C. Murthy, which collectively establish that the plaintiff's conduct, both prior and subsequent to filing the suit, must be scrutinized to determine compliance with Section 16(c).

Applying these principles, the Court held that the buyer's act of encashing the refund demand drafts was wholly inconsistent with her claim of willingness to complete the sale. If she truly intended to enforce the agreement, she would not have accepted and encashed the refund. This conduct conclusively demonstrated unwillingness to perform her part of the contract.

Consequently, the argument that the entire earnest money was not refunded was found irrelevant. The Court concluded that the buyer failed to satisfy the mandatory requirement of continuous readiness and willingness, thereby disentitling her to the equitable relief of specific performance.

2. THE AGREEMENT TO SELL DATED 25TH JANUARY 2008 STOOD CANCELLED/TERMINATED.

The Court held that the Respondent No. 1-buyer's act of encashing the refund demand drafts left no room for doubt that the Agreement to Sell dated 25th January 2008 stood effectively cancelled. It observed that the seller's letter dated 7th February 2008, enclosing five demand drafts of ₹2,11,000 and returning two post-dated cheques, constituted clear repudiation of the agreement. By encashing these drafts, the buyer accepted this repudiation, thereby bringing the agreement to an end.

The Court rejected the buyer's contention that a bilateral contract cannot be unilaterally cancelled, holding that in the present case the cancellation was indeed communicated and the buyer's conduct confirmed her acceptance of it. It further dismissed the argument that the drafts were encashed under protest, as there was no documentary evidence to support such a claim. On the contrary, the buyer's husband (PW-2) admitted in his deposition that no letter of protest or objection was ever sent to the seller after receiving the demand drafts and returned cheques.

3. ABSENT A PRAYER FOR DECLARATORY RELIEF THAT CANCELLATION OF THE AGREEMENT IS BAD IN LAW, A SUIT FOR SPECIFIC PERFORMANCE IS NOT MAINTAINABLE

The Court observed that the seller had issued a cancellation letter dated 7th February 2008, prior to the filing of the suit on 5th May 2008. Even though the enclosed demand drafts were encashed later in July 2008, it was incumbent upon the Respondent No. 1-buyer to seek a declaratory relief declaring the said cancellation as bad in law and non-binding, since the existence of a valid and subsisting agreement is a sine qua non for the grant of specific performance.

Relying upon I.S. Sikandar (Dead) by LRs. v. K. Subramani (2013) 15 SCC 27, the Court reiterated that, in the absence of such a prayer, a suit for specific performance of a cancelled agreement is generally not maintainable. While A. Kanthamani v. Nasreen Ahmed (2017) 4 SCC 654 had confined this principle to its own facts, the subsequent judgment in R. Kandasamy v. T.R.K. Sarawathy (2024), authored by Justice Dipankar Datta, clarified that even if no specific issue on maintainability is framed by the trial court, an appellate court is not precluded from examining whether the jurisdictional fact that a valid agreement exists, has been satisfied.

The Court emphasised that the existence of such jurisdictional fact is fundamental. If a cancellation letter is issued before the institution of the suit and is not set aside, the court lacks the basis to grant relief of specific performance. Therefore, in the present case, as no declaratory relief was sought to invalidate the cancellation of 7th February 2008, the suit was not maintainable.

4. APPELLANT HAS THE LOCUS STANDI TO FILE THE APPEAL

The Court rejected the preliminary objection raised by the Respondent No. 1-buyer that the appellant lacked locus standi to challenge the decrees. It held that this contention was misconceived, as the appellant had been impleaded as Defendant No. 3 in the suit on the strength of a Will dated 23rd September 2002, by which the original owner/seller had bequeathed the property in her favour. Being a beneficiary under the Will, the appellant was both a necessary and an interested party in the dispute, and therefore competent to maintain the appeal. The Court further clarified that the onus of proving continuous readiness and willingness lies on the buyer, and failure to discharge this onus disentitles the buyer from claiming the equitable relief of specific performance.

5. SUPPRESSION OF MATERIAL FACTS DISENTITLES THE BUYER FROM THE EQUITABLE AND DISCRETIONARY RELIEF OF SPECIFIC PERFORMANCE

The Court found that the Respondent No. 1-buyer had not only failed to seek declaratory relief against the cancellation of the Agreement to Sell but had also suppressed material facts in her plaint. She did not disclose that the seller had issued the cancellation letter dated 7th February 2008, enclosing five demand drafts and two of the three post-dated cheques. This omission, the Court held, constituted suppression of material facts and was sufficient to deny the buyer the equitable and discretionary remedy of specific performance.

In support of this principle, the Court referred to Citadel Fine Pharmaceuticals v. Ramaniyam Real Estates Pvt. Ltd. (2011) 9 SCC 147, where it was held that a party seeking specific performance must come to court with full candour and proper disclosure of all material facts. Suppression or misrepresentation of material facts disentitles a plaintiff from seeking such relief. The Court reiterated that the doctrine of “clean hands” governs equitable remedies and that any attempt to mislead the court can justify refusal of specific performance.

Conclusion:

Based on the foregoing findings, the Court concluded that the Agreement to Sell dated 25th January 2008 could not be specifically enforced. The appeal was accordingly allowed, and the impugned judgment of the Trial Court dated 27th April 2018, the decree dated 10th May 2018, and the Patna High Court’s judgment dated 9th May 2024 were all set aside. The sale deed executed in favour of the Respondent No. 1-buyer was declared null and void, and the appellant was directed to refund ₹24,61,000 (Rupees Twenty-Four Lakh Sixty-One Thousand), representing the balance sale consideration deposited by the buyer pursuant to the impugned judgments.

Jamin & Anr. v. State of Uttar Pradesh & Anr.
2025 SCC OnLine SC 506

On 14.04.2009, Respondent No. 2, the informant and the brother of the deceased, lodged FIR at Police Station Bilgram, Hardoi, Uttar Pradesh, under Sections 147, 148, 149, and 302 of the IPC against five persons, namely, Irshad, Irfan, Abdul, Jamin, and Akil, alleging that Jamin and Akil had exhorted the co-accused to kill the deceased, whereupon the co-accused fired at him with pistols, resulting in his death. After completion of investigation, the police filed Chargesheet dated 14.07.2009 only against Irshad and Irfan for the alleged offences, while informing the Court that investigation against the remaining accused persons—Abdul, Jamin, and Akil—was still in progress. Subsequently, on 27.10.2009, the Trial Court framed charges against Irshad and Irfan under Sections 147, 148, 149, and 302 IPC, to which the accused pleaded not guilty and claimed to be tried. During the course of trial, while evidence was being recorded, Respondent No. 2 filed an application under Section 319 of the CrPC seeking summoning of the remaining three persons named in the FIR—Abdul, Jamin, and Akil—to face trial along with the chargesheeted accused.

However, the Trial Court rejected the said Application on the ground that a person could be summoned by the Trial Court in exercise of its powers under Section 319 of the CrPC provided that there is cogent and reliable evidence indicating towards the complicity of such person in the commission of an offence for which he could be tried together with the accused persons already put to trial. Resultantly, the informant filed a Revision Petition and the High Court directed the Trial Court to reconsider his prayer for summoning the concerned accused persons. However, the Trial Court rejected his second application as well and again he preferred a Revision Petition. The High Court then set aside the Trial Court's Order and allowed the Revision Petition. The Appellants being dissatisfied with the Summoning Order, challenged the same but their application was rejected by the High Court. Hence, they were before the Apex Court.

The sequence of applications under Section 319 of the CrPC and the consequential High Court proceedings arising therefrom are tabulated below:

Application Under Section 319	Court	Date of the Order	Remarks
First Application	Trial Court	29.01.2010	The first application was rejected. Grounds: • Investigation against the proposed accused was ongoing and remained pending. • The cross-examination of PW-1 & PW-2 was incomplete
	High Court	14.05.2010	The revision application against the order dated 29.01.2010 was allowed. Direction: • To the Trial Court to consider application under Section 319 after the cross-examination of PW-1 & PW-2.

Application Under Section 319	**Court**	**Date of the Order**	**Remarks**
Second Application dated 10.06.2010	Trial Court	19.07.2010	The second application was rejected on merits
	High Court	14.09.2021	The revision application against the order dated 19.07.2010 was allowed on merits. Direction: • To the Trial Court to reconsider the application under Section 319 within three months from the date of the order. Note: • It was noted by the High Court that the trial in respect of the original accused had already concluded.
Third Application dated 22.09.2021 (the complainant renewed the prayer under Section 319)	Trial Court	21.02.2024	The third application was allowed on merits. Direction: • To summon the appellants herein as accused. Note: • It was recorded that the Trial Court had been authorized by the order dated 14.09.2021 of the High Court to allow the application under Section 319.
	High Court	01.04.2024	The application preferred by the appellants herein under Section 482 of the CrPC was dismissed and the order dated 21.02.2024 was upheld. Note: • It was recorded that as per Section 319(4), the trial against the summoned accused has to be commenced afresh and the witnesses re-heard. Therefore, the conclusion of trial in respect of the accused summoned originally would not cause any prejudice to the appellants herein.

Analysis:

(i) Legislative history, ingredients and scope of Section 319 of the CrPC

1. Legislative History

- Earlier provision: Section 351 of the Code of Criminal Procedure, 1898.
  - o Limited power – court could proceed only against a person attending the court who appeared from the evidence to have committed an offence.
  - o Required fresh proceedings and re-hearing of witnesses.
  - o Did not cover:

  a) A person not present in court but appearing from evidence to be guilty.

  b) Clarification on the mode of cognizance against such person.

- Law Commission's 41st Report (Paras 24.80–24.81):
  - o Recommended amendment to make the provision comprehensive:

1. Magistrates should be empowered to summon a person not present in court but found connected with the offence.

2. Cognizance against the newly added accused should be in the same manner as against the original accused.

- CrPC, 1973 (Section 319): Incorporated these recommendations, removing the lacuna.
  - o Covers persons whether present in court or not.
  - o Creates a legal fiction (Sec. 319(4)(b)) – newly added accused is deemed to have been an accused when court originally took cognizance.

2. Purpose & Object

- Ensures effective administration of justice.
- Prevents a situation where some real culprits escape trial merely because they were not chargesheeted by the investigating agency.
- Empowers courts to bring in persons who appear guilty from the evidence adduced in inquiry or trial.
- Based on doctrine judex damnatur cum nocens absolvitur ("The Judge is condemned when the guilty is acquitted").

3. Scope & Judicial Interpretation

The Supreme Court has consistently held that Section 319 confers an extraordinary and discretionary power that must be used sparingly and only in compelling circumstances.

- MCD v. Ram Kishan Rohtagi (1983) – Even if proceedings against a person were earlier quashed, the court can still summon him if fresh evidence emerges.
- Kishun Singh v. State of Bihar (1993) – A person discharged earlier can also be summoned under Section 319, provided evidentiary requirements are met.
- Raj Kishore Prasad v. State of Bihar (1996) – The provision applies where complicity of a person comes to light during trial/inquiry evidence.
- Suman v. State of Rajasthan (2010) – Prima facie satisfaction of involvement, based on evidence during inquiry/trial, is sufficient.
- Hardeep Singh v. State of Punjab (2014, Constitution Bench) – Clarified the evidentiary standard:
  - o Higher than the prima facie standard at the stage of charge,
  - o Lower than the standard of conviction.
  - o Cross-examination is not necessary at this stage.
  - o Section 319 applies to persons not investigated, named in Column 2 of the chargesheet, or even discharged (with recourse to Section 300(5) r/w 398 CrPC).

Thus, the provision is intended to empower courts to summon persons regardless of whether the police included them in the chargesheet, so long as their complicity is revealed in the evidence during trial or inquiry.

4. Ingredients of Section 319 CrPC

For exercise of power under Section 319, three essential requirements must be satisfied:

1. Ongoing proceedings – There must be an inquiry or trial pending against the original accused.

2. Evidence of involvement – Evidence must appear during such proceedings that another person (not already an accused) has committed an offence.

3. Joint trial possible – The person sought to be summoned must be capable of being tried together with the accused already facing trial.

5. Standard of Evidence

The evidentiary threshold for invoking Section 319 is more than prima facie but less than proof beyond reasonable doubt.

The test is whether the evidence, if left unrebutted, would reasonably justify trying the person as an accused. Cross-examination of witnesses is not a prerequisite. The provision is not to be invoked casually or mechanically, but only where strong and cogent evidence surfaces.

6. Procedural Safeguards

Once a person is summoned under Section 319(1):

• Fresh/de novo trial (s.319(4)(a)) – The proceedings against such person must start afresh, and all witnesses must be reheard, ensuring a full opportunity for defence.

• This safeguard is distinct from a split trial under Section 317 CrPC, as it aims to secure the right of fair trial for the newly added accused.

• Section 319(4) applies only when the power under Section 319(1) is validly exercised.

(ii) Stage at which power under Section 319 of the CrPC can be exercised

1. Statutory Framework

• Section 319(1) CrPC:

Court may proceed against any person appearing to be guilty of an offence "in the course of any inquiry into, or trial of, an offence."

• Key expressions:

o Inquiry – proceedings after charge-sheet is filed but before framing of charges (by Magistrate/court).

o Trial – starts only on framing of charges; continues until pronouncement of judgment.

o Course – covers the entire period during which inquiry/trial is ongoing.

2. Constitution Bench in Hardeep Singh v. State of Punjab (2014) 3 SCC 92

• Scope of stages:

1. Not at committal stage: Section 319 power cannot be used during Sections 207/208 CrPC committal proceedings – this is only pre-trial.

2. Commencement of trial: Trial begins only when charges are framed, not when cognizance is taken.

3. Inquiry stage: Limited scope – confined to summoning persons named in Column 2 of charge-sheet or potential accomplices.

4. Evidence requirement: Normally, the power is exercised on the basis of evidence adduced during trial, not investigation materials.

5. Time frame: Can be invoked anytime after filing of charge-sheet and before pronouncement of judgment.

3. Constitution Bench in Sukhpal Singh Khaira v. State of Punjab (2023) 1 SCC 289

• Court considered two critical questions:

(A) Whether summoning possible after conclusion of trial of original accused?

• Conviction cases:

o Power under Section 319 must be exercised before pronouncement of order of sentence.

o After sentencing, trial is concluded → court becomes functus officio.

• Acquittal cases:

o Power must be exercised before pronouncement of acquittal order.

• Same day order:

o If summoning and judgment happen on the same day, validity depends on whether summoning preceded pronouncement.

(B) Whether summoning possible in split-up (bifurcated) trial of absconding accused?

• Yes, court may summon additional accused during the split-up trial if evidence in that trial indicates involvement.

• Limitation: Evidence recorded in already concluded main trial cannot be used as basis for summoning in later split-up trial.

4. Principles of "Conclusion of Trial"

• Conviction case: Trial concludes only after sentencing (since judgment incomplete without sentence).

• Acquittal case: Trial concludes with order of acquittal under Section 232 CrPC.

• Multiple accused:

o Acquittal of some accused = trial ends for them.

o Conviction of others continues until sentencing.

5. Fresh Trial Requirement

• Once an additional accused is summoned under Section 319:

o If joint trial ordered: Entire trial must be conducted afresh (de novo) including rehearing of evidence.

o If separate trial ordered: Main trial of original accused can be concluded; separate trial will be conducted for new accused.

• Meaning of "could be tried together" (Section 319(1)): Directory, not mandatory → court has discretion.

6. Guidelines laid down in Sukhpal Singh Khaira (para 41)

Step-wise procedure:

1. Pause trial upon finding evidence/application under Section 319.
2. Decide need to summon additional accused.
3. If yes, pass summoning order before conclusion of main trial.
4. Then decide:

o Joint trial (→ trial must restart afresh).

o Separate trial (→ main trial can conclude; new trial against summoned accused).

5. If case is reserved for judgment → reopen for rehearing, then follow above process.
6. If main trial has concluded → no power under Section 319 in that trial. It can only be exercised in pending split-up trial, based on evidence therein.

(iii) Meaning of the expression "could be tried together with the accused"

1. What it Means

o The words "could be tried together with the accused" mean that a new person can be added as an accused only if, under law, he can be tried in the same case along with the existing accused.

o It is not necessary that they must always be tried together — only that joint trial is legally possible.

2. Connection with Section 223 CrPC

o Section 223 explains situations when different people can be tried together.

o Most relevant is Section 223(d): persons accused of offences committed in the same transaction can be charged and tried together.

o Example: If many people are involved in the same incident, they can be added later under Section 319.

3. **Supreme Court's View in R. Dineshkumar (2015)

o If offences are connected to the same transaction, joint trial is allowed.

o Ideally, all persons involved should be arraigned at the start, but even later the court can summon them under Section 319.

4. When Power Can Be Used

o The power under Section 319 can be used only while the trial is still going on.

o Once the trial ends, the court has no power to add new accused because they can no longer be "tried together" with the original accused.

5. Two Conditions for Using Section 319

o (i) There must be evidence that the person appears to have committed an offence.

o (ii) That person should be legally capable of being tried with the existing accused.

6. Mandatory vs. Directory

o Mandatory: The summoning order must be passed before the trial finishes.

o Directory: The phrase "could be tried together" means "possible," not "compulsory." The judge may still decide to try the new accused separately if needed.

7. Later Clarifications (Shashikant Singh & Sukhpal Singh Khaira cases)

o If a person is summoned before the main trial ends, then even if the trial of the original accused finishes before the new trial starts, the new accused can still be tried separately.

o The summoning order remains valid — it does not get cancelled just because the main trial ended.

(iv) Peculiar facts of the present case not fully covered by the guidelines issued by this Court in its decisions in Sukhpal Singh Khaira and Hardeep Singh

Judicial Summary (Paras 69–74)

1. General Principle (Settled Law):

o Power under Section 319 CrPC to summon additional accused must be exercised before conclusion of trial of the original accused.

o Established in Hardeep Singh, Shashikant Singh, Sukhpal Singh Khaira.

2. Present Case – Peculiar Facts:

o Second application under Section 319 was filed by Respondent No. 2 during pendency of trial.

o Trial Court rejected the application while trial was still ongoing.

o Respondent No. 2 filed a revision before High Court against rejection.

o During pendency of revision, trial of the original accused concluded.

o Thereafter, High Court set aside the rejection order, finding patent illegality, and remanded matter for fresh consideration.

3. Subsequent Events:

o Despite High Court not requiring a fresh application, Respondent No. 2 filed a third application under Section 319 nearly 10 years after conclusion of trial.

o Sessions Court allowed the third application.

o Appellants challenged under Section 482 CrPC.

o High Court rejected challenge, thereby affirming summoning.

4. Comparison with Earlier Cases:

o Shashikant Singh – Summoning order was passed before conclusion of trial; later interference was only because trial ended during pendency of revision. Supreme Court upheld the summoning order, giving a purposive interpretation.

o Sukhpal Singh Khaira – Limited question: whether summoning can be passed after conviction and sentence of original accused (answered in negative).

o Distinction in present case: Here, no summoning order existed before trial concluded; only an application was pending/ rejected.

5. Key Legal Issue:

o What is the effect of High Court's revisional power (under Sections 397–401) when it sets aside rejection of a Section 319 application after conclusion of trial?

o Specifically, whether revisional jurisdiction can, in effect, revive Section 319 proceedings beyond the conclusion of trial, even though the trial court itself could not have exercised such power post-trial.

(v) Whether the High Court was right in exercising its revisional jurisdiction for the purpose of setting aside the order of the Trial Court rejecting the second application preferred by the respondent no. 2 under section 319 of the CrPC?

1. Background

• The issue relates to the order of the High Court dated 14.09.2021 in Revision Petition No. 400/2010.

• The appellants did not challenge this order before any forum; hence, it attained finality.

• The order now under challenge is the subsequent High Court order rejecting a Section 482 CrPC petition filed against the Trial Court's order allowing the Section 319 application.

• For clarity, the Court examined whether the High Court was correct in exercising revisional jurisdiction while setting aside the Trial Court's earlier rejection of the Section 319 application.

2. Scope of Revisional Jurisdiction (Section 397 CrPC)

• Explained by the Supreme Court in Amit Kapoor v. Ramesh Chander (2012) 9 SCC 460:

o Revisional power is limited: it exists to correct patent defects, errors of jurisdiction, or errors of law.

o It may be invoked where:

 The decision is grossly erroneous.

 There is non-compliance with law.

 The finding is based on no evidence.

 Material evidence is ignored.

 Judicial discretion is exercised arbitrarily or perversely.

o Not exhaustive categories, but illustrative. Each case turns on its own facts.

o Revisional power is not as broad as inherent power under Section 482 CrPC.

o Normally, it should not interfere with interim/interlocutory orders unless gross injustice is apparent.

o Exercise of revisional power is generally confined to questions of law unless factual findings are perverse.

o Ultimately, its purpose is to ensure justice and prevent abuse of power.

3. High Court's Reasoning (Order dated 14.09.2021)

• The High Court set aside the Trial Court's rejection of the Section 319 application on two primary grounds:

a. Chargesheet non-filing irrelevant: The absence of a chargesheet against the proposed accused cannot be a valid reason to refuse their summoning under Section 319.

b. Incorrect reasoning by Trial Court: The Trial Court erred in rejecting the application merely because the informant/ respondent no. 2 did not know the names of the proposed accused; their presence at the scene of the offence could still be established by evidence.

4. Legal Position

• The High Court emphasized that the settled law is clear: filing or non-filing of a chargesheet has no bearing on the Court's power under Section 319 CrPC.

• Since the Trial Court's order was based on a misapplication of settled law, it amounted to a patent illegality.

5. Court's Conclusion

• The Supreme Court agreed that the High Court was justified in exercising its revisional jurisdiction because:

o The Trial Court's order rejecting the Section 319 application was legally flawed.

o The High Court corrected this patent illegality within the limited scope of Section 397 CrPC.

• The High Court's direction to the Trial Court to reconsider the application within three months was proper.

6. Issue Remaining

• The question now is whether the High Court's direction to reconsider the Section 319 application can have any meaningful effect since the main trial has already concluded.

(vi) Whether the order passed by the High Court in exercise of its revisional jurisdiction would relate back to the order passed by the Trial Court rejecting the application under Section 319 of the CrPC.

Legal Principles Established

1. Duty Under Section 319 CrPC

o Section 319 casts a duty on the court to ensure that no guilty person escapes trial (Hardeep Singh).

o Courts must adopt a purposive interpretation (Shashikant Singh) to prevent real offenders from going scot-free due to procedural lapses.

2. Relating Back Doctrine

o Maru Ram v. Union of India (1981): An appellate conviction relates back to the date of the Trial Court's order since an appeal is a continuation of trial.

o Shankar Ramchandra Abhyankar (1969) & U.J.S. Chopra (1955): Orders passed in revision replace the subordinate court's order; merger principle applies equally to revision.

3. Trial Court Not Functus Officio

o Even if trial concludes, the Trial Court is not functus officio when reconsidering Section 319 application under a High Court's revisional direction, because it is merely giving effect to the superior court's mandate.

4. Separate Trial Requirement

o Since the original trial has concluded, newly added accused must face a separate trial (Sukhpal Singh Khaira, guideline 41.6).

o Section 319(4)(a) safeguards rights of newly summoned accused by mandating de novo proceedings and fresh examination of witnesses.

5. Equitable Considerations

o Principle of actus curiae neminem gravabit ("an act of court shall prejudice no man") applies—no accused or victim should suffer due to court error or delay.

o Relating back ensures substantial justice without prejudice to the newly summoned accused.

Application to Present Case

• Facts:

o Trial Court rejected the second Section 319 application on 19.07.2010 (before conclusion of trial).

o High Court, on 14.09.2021, in revision, set aside that rejection and directed reconsideration.

o Trial Court, following High Court's direction, passed summoning order on 21.02.2024 (after trial concluded).

• Legal Effect:

o By virtue of the relation-back doctrine, the summoning order of 21.02.2024 is deemed to have been passed on 19.07.2010 (when the Trial Court wrongly rejected the application).

o Thus, the order is treated as passed before the conclusion of trial, ensuring compliance with the Constitution Bench ruling in Sukhpal Singh Khaira that summoning must occur before conclusion of trial.

• No Prejudice Caused:

o Since original trial already concluded, appellants will face a separate trial.

o Section 319(4)(a) guarantees fairness by requiring proceedings to commence afresh with witnesses re-heard.

Caution for Future

• Though legally permissible, it is far from ideal to pass revisional orders many years after conclusion of trial.

- The High Court should, in such cases:

1. Stay trial proceedings until disposal of the revision, and

2. Expedite hearing of revisions under Section 319 to avoid undue delays.

Final Holding

- The High Court's revisional order relates back to the date of the Trial Court's rejection.
- The summoning order of 21.02.2024, though passed after trial concluded, is deemed to have been passed on 19.07.2010.
- Therefore, it is valid and enforceable; the newly added accused must face a separate de novo trial.
- No prejudice is caused to the appellants, and the object of Section 319—ensuring actual perpetrators are brought to justice—is fulfilled.

Thus, the Supreme Court found no reason to interfere with the High Court's order.

(vii) Right of the proposed accused to be heard at the stage of summoning under Section 319 of CrPC

1. Appellants' contention

o The appellants argued that their right to be heard was violated when the High Court, in Revision Petition No. 400/2010, set aside the Trial Court's rejection of the Section 319 application without hearing them.

2. Principle settled in recent case law

o In Yashodhan Singh v. State of U.P., (2023) 9 SCC 108, the Supreme Court clarified:

 No right of hearing at the initial summoning stage under Section 319 CrPC.

 Section 319 does not envisage a pre-summoning hearing for a proposed accused.

 The principle of natural justice is not violated since the person gets rights later in trial (e.g., cross-examination, defence evidence, and challenge before a superior court).

 Only a discharged person (under Section 227 CrPC) has a right to inquiry before being added again under Section 319.

 Decisions in Jogendra Yadav (2015) and Ram Janam Yadav (2023) do not establish any mandatory right to be heard before summoning. The fact that opportunities were provided in some cases was incidental, not mandatory.

o Rationale: Allowing pre-summoning hearings would derail the main trial, cause "mini-trials within trials," and let the proposed accused hijack proceedings.

3. Distinction in the present case

o In this matter, the Trial Court had rejected the Section 319 application.

o This rejection created a benefit in favour of the proposed accused.

o If the High Court, in revisional jurisdiction, reverses such rejection, it takes away that benefit, making the order prejudicial to the proposed accused.

o Therefore, at the revision stage, the proposed accused must be given a hearing.

4. Statutory basis – Section 401(2) CrPC

o Provides that no order in revision shall be made "to the prejudice of the accused or other person unless he has had an opportunity of being heard."

o This mandatory right applies once an order favourable to the accused/proposed accused is sought to be overturned in revision.

5. Support from precedent

o Manharbhai Muljibhai Kakadia v. Shaileshbhai Mohanbhai Patel (2012) 10 SCC 517 held:

 Even if a complaint is dismissed at the preliminary stage (under Section 203 CrPC), the suspect acquires a protective right.

 If such dismissal is challenged in revision, the suspect has a right of hearing under Section 401(2).

 The right exists irrespective of whether process had been issued earlier.

 Hence, revival of proceedings at the instance of the complainant mandates hearing the proposed accused in revision.

6. Application to the present case

o Though appellants claimed they were not heard, the record of the High Court's order dated 14.09.2021 in Revision Petition No. 400/2010 shows that they were arrayed as respondent nos. 2 and 4.

o Therefore, their contention that the order was passed without hearing them is without merit.

Conclusion:

1. High Court justified – It rightly set aside the Trial Court's rejection of the second Section 319 application since the rejection was illegal and unjust.

2. Revisional order relates back – An order passed in revision under Sections 397/401 CrPC relates back to the date of the original order, just like an appellate order.

3. Effect on summoning order – The Trial Court's summoning order (21.02.2024), though passed after trial, is deemed to have been passed on 19.07.2010 because of the "relation back" principle.

4. Trial Court not functus officio – Even after trial conclusion, it could act on the revisional order to reconsider the Section 319 application.

5. Summoning = extension of revisional order – The 2024 summoning order replaced the 2010 rejection order.

6. Right to be heard – A proposed accused does not get a hearing before being summoned under Section 319. But if an earlier rejection in their favour is overturned in revision, the High Court must hear them (Section 401(2) CrPC).

7. Appeal dismissed – Trial Court directed to proceed with summoning and trial.

The appeal was dismissed, the summoning order upheld (deemed from 2010), and the Trial Court must proceed with trial against the appellants.

Counterclaim vs Set-Off: A Comparative Study

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On 14.04.2009, Respondent No. 2, the informant and the brother of the deceased, lodged FIR at Police Station Bilgram, Hardoi, Uttar Pradesh, under Sections 147, 148, 149, and 302 of the IPC against five persons, namely, Irshad, Irfan, Abdul, Jamin, and Akil, alleging that Jamin and Akil had exhorted the co-accused to kill the deceased, whereupon the co-accused fired at him with pistols, resulting in his death. After completion of investigation, the police filed Chargesheet dated 14.07.2009 only against Irshad and Irfan for the alleged offences, while informing the Court that investigation against the remaining accused persons—Abdul, Jamin, and Akil—was still in progress. Subsequently, on 27.10.2009, the Trial Court framed charges against Irshad and Irfan under Sections 147, 148, 149, and 302 IPC, to which the accused pleaded not guilty and claimed to be tried. During the course of trial, while evidence was being recorded, Respondent No. 2 filed an application under Section 319 of the CrPC seeking summoning of the remaining three persons named in the FIR—Abdul, Jamin, and Akil—to face trial along with the chargesheeted accused.

However, the Trial Court rejected the said Application on the ground that a person could be summoned by the Trial Court in exercise of its powers under Section 319 of the CrPC provided that there is cogent and reliable evidence indicating towards the complicity of such person in the commission of an offence for which he could be tried together with the accused persons already put to trial. Resultantly, the informant filed a Revision Petition and the High Court directed the Trial Court to reconsider his prayer for summoning the concerned accused persons. However, the Trial Court rejected his second application as well and again he preferred a Revision Petition. The High Court then set aside the Trial Court's Order and allowed the Revision Petition. The Appellants being dissatisfied with the Summoning Order, challenged the same but their application was rejected by the High Court. Hence, they were before the Apex Court.

The sequence of applications under Section 319 of the CrPC and the consequential High Court proceedings arising therefrom are tabulated below:

Meaning and Concept

1. Set-Off

The concept of set-off allows a defendant to balance mutual debts between himself and the plaintiff. When both parties owe each other money, the defendant can plead that the amount he owes should be adjusted against what the plaintiff owes him. Under Order VIII Rule 6 of CPC, set-off is defined as a defense claim where the defendant seeks to deduct from the plaintiff's claim any ascertained sum legally recoverable by him from the plaintiff.

2. Counterclaim

A counterclaim, introduced by the Amendment Act of 1976 (Order VIII Rules 6A–6G CPC), is broader than set-off. It allows a defendant to claim any right or relief against the plaintiff, even if it arises from a different cause of action. In essence, it is a cross-suit by the defendant against the plaintiff, enabling both to be tried together.

Essential Conditions

For Set-Off (Order VIII Rule 6)

1. Mutual debts
2. Ascertainable amount
3. Same character
4. Legally recoverable
5. Within limitation

For Counterclaim (Order VIII Rule 6A)

1. Cause of action before filing defense
2. Independent claim
3. Relief sought may differ
4. Jurisdiction must be satisfied

Nature and Legal Effect

Set-off operates as a defense; it reduces the plaintiff's claim but does not allow recovery beyond the plaintiff's demand. Counterclaim is an independent cause of action treated like a cross-suit; it may lead to a decree in favor of the defendant.

In Jag Mohan Chawla and Anr. v. Dera Radha Swami Satsang and Ors. MANU/SC/0565/1996 : (1996) 4 SCC 699 dealing with the concept of counter-claim, the Court "has opined thus:

"... is treated as a cross-suit with all the indicia of pleadings as a plaint including the duty to aver his cause of action and also payment of the requisite court fee thereon. Instead of relegating the Defendant to an independent suit, to avert multiplicity of the proceeding and needless protection (sic protraction), the legislature intended to try both the suit and the counter-claim in the same suit as suit and cross-suit and have them disposed of in the same trial. In other words, a Defendant can claim any right by way of a counter-claim in respect of any cause of action that has accrued to him even though it is independent of the cause of action averred by the Plaintiff and have the same cause of action adjudicated without relegating the Defendant to file a separate suit."

Scope – Order 8, Rule 6A of the Code of Civil Procedure was introduced by Amendment Act of 1976 but the very purpose of introducing this new Rule on the recommendation of the Law Commission of India was to avoid multiplicity of the proceedings in as much as giving right to the defendant to raise not only plea of set off but also counter claim by setting up rights to himself irrespective of the fact whether cause of action for counter claim had accrued afterwards of the filing of the suit. Counter claim for all intent and purposes is a suit filed by one figuring as defendant in another suit filed by the plaintiff., **Praveen Kumar Sukhani v. Bishwanath Mahto, AIR 2006 Jhar 1.**

It is not necessary that nature of suit or relief claimed by plaintiff as well as defendant must be same to treat plea of defendant as counter-claim. Defendant's cause of action for counter-claim can be different from cause of action of plaintiff's suit. Only limitation in filing counterclaim is that it must be made before written statement is filed or before date of filing of written statement expires., **Sabitri Nath and Ors vs. Sabitri Deb, AIR 2010 Gau.169.**

Can a counter-claim be directed solely against the codefendants be maintained.? —

Normally, a counter-claim, though based on a different cause of action than the one put in suit by the plaintiff can be made. But a counterclaim has necessarily to be directed against the plaintiff in the suit, though incidentally or along with it, it may also claim relief against codefendants in the suit. But a counter-claim directed solely against the co-defendants cannot be maintained. By filing a counter-claim the litigation cannot be converted into some sort of an inter-pleader suit., Rohit Singh v. State of Bihar (now State of Jharkhand) AIR 2007 SC 10.

Maintainability of counter-claim- When defendant comes with counter-claim, he has to make specific statement about his claim and must deposit Court fee required to be paid under the law., Rammani Ammal v. Susilammal, AIR 1991 Mad. 163.

Dismissal of suit by withdrawal- The counter-claim filed would not get dismissed on that score. It shall have the same effect as a cross-suit. No illegality in allowing the counter-claim filed to be further proceeded with bearing a separate number., M.S. Mohammed Yahya v. M.S. Mohammed Jaffer, 1989(1) Cur.C.C. 677 (Mad).

Procedural Aspects

Both set-off and counterclaim are pleaded in the written statement and tried together to avoid multiplicity of proceedings. The court may pass a single decree adjusting both claims.

In Ashok Kumar Kalra v. Wing Commander Surendra Agnihotri, (2020) 2 SCC 394, the Supreme Court underscored that procedural justice is not an end in itself but a vehicle to achieve substantive justice. Order VIII Rules 6 and 6A of the Code of Civil Procedure make provisions for set-off and counter-claim. The limitation period applicable to a counter-claim is determined by the nature of the claim and is governed by the provisions of the Limitation Act. Rule 6A does not require that a counter-claim must necessarily be filed along with the written statement. It is permissible for the Court to allow a counter-claim through subsequent pleadings, provided such allowance serves the ends of justice.

In Bollepanda P. Poonacha v. K.M. Madapa, (2008) 13 SCC 179, the Court further clarified that the right to file a counter-claim is an additional right, available to the defendant in respect

	Set-off	Counterclaim
Nature	Statutory defence	Cross-action initiated by the defendant
Basis	Must be an ascertained sum or arise from the same transaction as the plaintiff's claim	Not required to arise from the same transaction

Purpose	Defence against plaintiff's claim	Offensive measure against the plaintiff's claim
Pleadings	Pleaded in the written statement	Treated as a separate claim
Scope	Generally cannot exceed the plaintiff's claim	Can exceed the plaintiff's claim
Jurisdiction limits	Claims must not exceed the court's pecuniary jurisdiction limits	Claims must not exceed the court's pecuniary jurisdiction limits

Set-off is distinguishable from counter-claim both in its application and in its effect. In its application set-off is limited to money claims, whereas counter-claim is not so limited. Any claim in respect of which the defendant could bring an independent action against the plaintiff may be enforced by counter-claim subject only to the limitation that it must be such as can conveniently be tried with the plaintiff's claim. Thus, not only claims for money, but also other claims such as a claim for an injunction or for specific performance or for a declaration may be subject of a Counter-claim., M/s Anand Enterprises, Bangalore & Ors. v. Syndicate Bank, Bangalore, AIR 1990 Kant. 175: 1989(2) Kant.

The difference between counterclaim and setoff was also discussed on the case of Ashok Kumar Kalra v. Wing Commander Surendra Agnihotri & Others (2020) 2 SCC 394 by the three judge bench. The court stated:

"11. Thus, as per Order 8 Rule 6 CPC, the defendant can claim set-off of any ascertained sum of money legally recoverable by him from the plaintiff, against the plaintiff's demand, in a suit for recovery of money. Whereas, Rule 6-A deals with counterclaim by the defendant, according to which a defendant in a suit may, in addition to his right of pleading a set-off under Rule 6, set up, by way of counterclaim against the claim of the plaintiff, any right or claim in respect of a cause of action accruing to the defendant against the plaintiff either before or after filing of the suit but before the defendant has delivered his defence or before the time prescribed for delivering his defence has expired, whether such counterclaim is in the nature of a claim for damages or not.

45. Further, the contention that the limitation on filing of set-offs under Order 8 Rule 6 should be read into Rule 6-A(1) is untenable. The nature of a set-off and a counterclaim is different. For instance, a set-off must necessarily be of the same nature as the claim of the plaintiff and arise out of the same transaction. These requirements do not hold for counterclaims, which may be related to "any right or claim in respect of a cause of action accruing to the defendant against the plaintiff" as stated in Order 8 Rule 6-A(1). Further, in case of set-offs, there is no provision akin to Order 8 Rule 6-A(4), which provides that a set-off must be treated as a plaint. Thus, it appears that the legislature has consciously considered it fit to omit a specific time-limit for filing of counterclaims in Rule 6-A. In such a scenario, a limitation cannot be read into this Rule."

Advantages

- Saves time and cost
- Avoids multiple suits
- Ensures comprehensive justice

Limitations

- Jurisdictional limits
- Timely filing required
- Cannot exceed prescribed scope

Limitations of right to counter-claim- A right to file counter claim is an additional right. It may be filed in respect of any right or claim, the cause of action therefore, however, must accrue either before or after the filing of the suit but before the defendant has raised his defence. Bollepanda P. Poonacha v. K.M. Madapa .AIR 2008 SC 2003.

What is laid down under Rule 6-A(1) is that a counter-claim can be filed, provided the cause of action had accrued to the defendant before the defendant had delivered his defence or before the time limited for delivering his defence has expired, whether such counter-claim is in the nature of a claim for damages or not. Mahendra Kumar v. State of Madhya Pradesh, AIR 1987 SC 1395.

Conclusion

The introduction of counterclaims into the Indian civil procedure has modernized litigation practice by enabling comprehensive adjudication of mutual claims. While set-off continues to serve a limited but valuable function in balancing monetary claims, counterclaim provides a more dynamic and inclusive procedural tool.

Both mechanisms reflect the CPC's underlying objective — to avoid multiplicity of proceedings and ensure substantial justice between the parties in a single suit.

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