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ABETMENT OF SUICIDE — Cruelty — Death of deceased by consuming poison — Allegations about ill-treatment came after unfortunate incident — No evidence of any discord between parties — Witnesses are parents and siblings of victim, but they speak in different voices — No unanimity amongst them as to what was cause of victim's ill-treatment and how it was meted out — It seems entire story about ill-treatment is after thought — In absence of evidence to show prior to victim's death, she was subjected to any ill-treatment to provoke her to commit suicide, not possible to hold appellant abetted commission of suicide or instigated victim by his ill-treatment to end her life — Notwithstanding testimony of entire family of victim comprising parents, brothers and sisters, conclusion drawn by Trial Judge cannot be upheld.

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II (2006) DMC 648 (Karnataka HC)

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Criminal Procedure Code, 1973 — Sections 482, 320 — Indian Penal Code, 1860 — Section 498A.

II (2006) DMC 653 (Allahabad HC)

— Cruelty, Criminal Intimidation, Hurt, Common Intention — Inherent powers — Husband and wife reunited and living peacefully with their daughter and family members — Appropriate to accept request of petitioners for compounding offences to meet ends of justice.

Indian Penal Code, 1860 — Sections 498A, 506(1), 342, 323, 324 r/w Section 34 — Criminal Procedure Code, 1973 — Sections 320 and 482.

II (2006) DMC 725 (Kerala HC) (DB)

— Exercise of revisional powers — Court cannot exercise powers under Section 397, Cr.P.C. so as to compound non-compoundable offence under Section 320, Cr.P.C.

Criminal Procedure Code, 1973 — Sections 397 and 482 — Indian Penal Code, 1860 — Section 498A.

II (2006) DMC 725 (Kerala HC) (DB)

CRUELTY — Abetment of Suicide — Death of deceased by consuming poison — No evidence of any discord between parties — No evidence to show prior to victim's death, she was subjected to any ill-treatment to provoke her to commit suicide, not possible to hold appellant abetted commission of suicide or instigated victim by his ill-treatment to end her life(See *Abetment of Suicide*)

II (2006) DMC 747 (Bombay HC)

— Abetment of suicide, Common Intention — Transfer of investigation to C.B.I. — Due to various allegations made by petitioner matter transferred for investigation to C.I.D. branch — Charge-sheet filed — There is reason to doubt efficiency and competency of IO to conduct investigation — No purpose will be served if further investigation made by any CID branch — Proper and competent agency to make further investigation in this heinous offence would be CBI.

Indian Penal Code, 1860 — Sections 498A, 306 r/w Section 34 — Criminal Procedure Code,

1973 — Sections 173(8) and 482.

II (2006) DMC 737 (Bombay HC) (DB)

- Compounding of offence — Exercise of inherent powers — Offence under Section 498A, IPC non-compoundable — Court should examine whether request is *bona fide* and not intended to get out of clutches of law — Courts must see power under Section 482, Cr.P.C. not misused.

Criminal Procedure Code, 1973 — Sections 397 and 482 — Indian Penal Code, 1860 — Section 498A.

II (2006) DMC 725 (Kerala HC) (DB)

- Dowry Death — Usual manner of taunting deceased to insist upon her father to keep up promise does not amount to cruelty.

Indian Penal Code, 1860 — Section 304B r/w Sections 34 and 498A — Evidence Act, 1872 — Section 113B.

II (2006) DMC 648 (Karnataka HC)

- Dowry Demand — At stage of issuance of process, Magistrate mainly concerned with allegations in complaint petition and evidence led in support of same and *prima facie* satisfied about sufficient ground for proceeding against accused — Allegations in complaint petition disclose above offence and complainant in her statement supported allegations, no infirmity in impugned order issuing process against petitioners — Only because petitioner No. 1 filed matrimonial case before filing of complaint, not sufficient to hold complaint is afterthought or *mala fide* when due to bitter feelings between parties police had to be informed long before filing of complaint petition.

Criminal Procedure Code, 1973 — Sections 245(1) and 482 — Indian Penal Code, 1860 — Section 498A — Dowry Prohibition Act, 1961 — Sections 3 and 4.

II (2006) DMC 732 (Patna HC)

- Dowry Demand — Compounding of offence — Quashing of order granting permission to petitioner to withdraw complaint — No compromise petition in this connection can be allowed — Section 321, Cr. P.C. specifically provides only P.P. or Addl. P.P. can withdraw case — Prayer for compounding offence rejected by Court below on ground that no compromise petition produced before him — Under Section 482, Cr.P.C. Court can quash criminal proceeding of complaint without limiting provision under Section 320, Cr.P.C. — When decree for dissolution of marriage passed and compromise petition became part of decree — Complaint petition and prosecution pending against O.P. No. 2 quashed.

Criminal Procedure Code, 1973 — Sections 320 and 482 — Indian Penal Code, 1860 — Sections 498A — Dowry Prohibition Act, 1961 — Sections 3, 4.

II (2006) DMC 770 (Patna HC)

- Evidence of ill-treatment came from communication which P.Ws. 1 and 2 claimed to have received from victim — Said communication doubtful and for purpose of proving offence punishable under Section 498A, IPC, inadmissible as dying declaration — Evidence of P.Ws. 1 and 2 discarded as not contributing anything to establish charge of offence under Section 498A, IPC.

Indian Penal Code, 1860 — Section 498A

II (2006) DMC 775 (Bombay HC)

- False allegations of unfaithfulness with calculation and deliberation levelled by appellant-husband against wife, for purpose of matrimonial proceedings — Allegations of cruelty by wife may be classified into 4 categories, *viz.*, inability and unwillingness to help in household chores and non-cooperation with appellant during visits by his friends, demand to live separately, violent behaviour including suicidal tendency, unfaithfulness — Evidence on unwillingness to help in household chores is sketchy and vague — Neither of appellant parents deposed in proceedings — As regard allegation that wife demanded to live separately not corroborated by any other

evidence except sole deposition of appellant — Further, allegation as to suicidal tendency of wife also uncorroborated by testimony of any witness — Wife evidence more plausible in this regard — Most serious allegation levelled by husband against wife is her alleged “affair” with man of approximately 65 years of age — He knows respondent’s wife from her childhood, being neighbour of her father — Respondent being working woman and in course of employment would surely be interacting with several male colleagues — Mere meetings or outings cannot be seen by reasonably placed person as acts of mental cruelty — Such allegations deplorable and reveal his motive in painting wife in darkest of hues, at any cost — Appellant levelled allegations of unfaithfulness with calculation knowing fully well they were not true — Letters written by wife to her father not challenged by appellant — Allegations in entirety do not cumulatively point to persistently cruel behaviour — Appellant shall pay cost of Rs. 20,000/- to respondent as cost of appeal.

Hindu Marriage Act, 1955 — Sections 13(1)(ia), 28.

II (2006) DMC 659 (Delhi HC)

— Financial status of respondent higher than family of appellant — Marriage solemnized on 9.5.2002 and both parties remained together upto 18.8.2002 happily — Appellant (wife) left house with permission of respondent (husband) when mother of appellant came to take her for Rakshabandhan — It cannot be said appellant treated respondent within cruelty — Even if both incidents of alleged cruelty accepted for sake of arguments that allegations made by respondent are true, it can be safely said at both occasions appellant was having no role to play — It cannot be said appellant treated respondent with cruelty — Judgment and decree passed by 1st ADJ set aside.

Hindu Marriage Act, 1955 — Section 13(1)(ia).

II (2006) DMC 793 (Madhya Pradesh HC)

— Murder, Dowry Death — Death of deceased by burn injuries — Ill-treatment meted to deceased a account of dowry demand (*see Murder*)

II (2006) DMC 705 (Delhi HC) (DB)

— Murder, Dowry Demand — Dying declarations — Evidence on record does not establish beyond all reasonable doubt that deceased died in homicidal death and deceased not subjected to cruelty (*see Murder*)

II (2006) DMC 670 (Karnataka HC) (DB)

— Murder of Wife by Strangulation — Ill-treatment of deceased due to non-fulfillment of demand of Rs. 25,000 (*See Murder*)

II (2006) DMC 757 (SC)

— Murder of wife setting her ablaze — Dying declarations — Reliable — Evidence clearly indicates appellant was an alcoholic and used to ill-treat his wife and assault her (*see Murder*)

II (2006) DMC 645 (Bombay HC) (DB)

— No straitjacket formula of what is cruelty — Single or even isolated acts of grave severity can constitute cruelty — However, on other hand whole body of evidence may not measure upto required standard to constitute cruelty.

Hindu Marriage Act, 1955 — Section 13(1)(ia).

II (2006) DMC 659 (Delhi HC)

— Only harassment to which deceased was subjected, was that she was subjected to do household work and her husband refused to set up separate house at her request — No other allegations of harassment — All letters produced by prosecution indicate deceased was happy in her matrimonial house and she was in love with her husband — Not even remote indication of harassment or demand of dowry or cruel treatment — Application of Section 498A, Clause (b)

not attracted — Death of deceased being accidental, it falls short of Section 498A, Explanation (a).

Indian Penal Code, 1860 — Sections 498A, Explanation (a)

II (2006) DMC 670 (Karnataka HC) (DB)

— Primary requisite for applicability of Section 498A, IPC — Person concerned must be husband or relative of husband — He or they must subject woman concerned to cruelty.

Indian Penal Code, 1860 — Section 498A.

II (2006) DMC 780 (Patna HC)

— Quashing of Summoning Order — Compounding of offence — Compromise between parties and they wanted to live peacefully — Though offence under Section 498A is not compoundable still bar created by Section 320, Cr.P.C. would not come in way — Considering facts and special features, chances of ultimate conviction is bleak and no useful purpose likely to be served by allowing criminal prosecution to continue — Summons quashed.

Criminal Procedure Code, 1973 — Sections 482, 320 — Indian Penal Code, 1860 — Section 498A.

II (2006) DMC 653 (Allahabad HC)

— Remarriage not legal under Mohammedan Law — Cognizance of offence under Section 498A, IPC cannot be taken.

Indian Penal Code, 1860 — Section 498A.

II (2006) DMC 780 (Patna HC)

DE FACTO CONSENT FOR DIVORCE (*see Desertion*)

II (2006) DMC 718 (Punjab & Haryana HC) (DB)

DESERTION — Woman deserted by her husband for 5 years before she lodged divorce petition — Husband not bothered about her and her daughter during this period — Petitioner was not seeking any permanent or temporary alimony but simply release from matrimonial bond — Trial Judge took strict legalistic view of provisions of Hindu Marriage Act and overlooked social aspects of case holding not to grant collusive decree of divorce — There is *de facto* consent between parties for divorce although petition was not on basis of mutual consent and was collusive one — Respondent's mother on basis of instructions from respondent, instructed Counsel to agree to divorce — This is unusual procedure but in light of *ex parte* evidence recorded by Trial Court and realities of life, lenient view may be taken and provisions of Section 23(1)(c) be overlooked — Judgment of ADJ set aside — Petition for divorce filed by appellant wife accepted — Marriage between parties dissolved by decree of divorce.

Hindu Marriage Act, 1955 — Sections 13(1)(ib), 23(1)(c).

II (2006) DMC 718 (Punjab & Haryana HC) (DB)

DISCHARGE — Powers of Magistrate — Magistrate can discharge accused if after taking evidence adduced by prosecution he find no offence made against him.

Criminal Procedure Code, 1973 — Sections 245(1) and 482 — Indian Penal Code, 1860 — Section 498A — Dowry Prohibition Act, 1961 — Sections 3 and 4.

II (2006) DMC 732 (Patna HC)

DOWRY DEATH — Cruelty — Accused when convicted for more serious offence of dowry death, his conviction for less serious offence of cruelty, unwarranted.

Indian Penal Code, 1860 — Sections 302, 304B and 498A.

II (2006) DMC 648 (Karnataka HC)

— Cruelty — Murder — Evidence on record does not implicate accused either with harassment given to deceased on account of demand of dowry or ill-treatment given to deceased by her

husband(SeeMurder)

II (2006) DMC 720 (Karnataka HC) (DB)

- Cruelty — Presumption — Appreciation of Evidence — Evidence of PW 9 does not incriminate accused 2 and 3, that they abetted assault in any manner — In usual manner they taunted deceased to insist upon her father to keep up promise — Said conduct does not amount to offence of cruelty under Section 498A, IPC — Conduct of accused 2 and 3 as per evidence does not disclose they are guilty of offence under Section 304B, IPC or abetting commission of such offence — Conviction of accused 2 and 3 bad in law and set aside.

Indian Penal Code, 1860 — Section 304B r/w Sections 34 and 498A — Evidence Act, 1872 — Section 113B.

II (2006) DMC 648 (Karnataka HC)

- Cruelty, Hurt, Criminal Intimidation — Petitioner raised convincing ground of his non-presence/non-participation in alleged offence — Petitioner is Junior Commissioned Officer in Indian Army, his younger son was suffering from kidney trouble — Petitioner and his wife donated their kidneys to him and admitted in hospital during 2003-2004 — Affidavit filed in support of same — He was on duty at Gujarat at that time — There was no occasion for them to indulge in alleged offence — Responsible military officer issued certificate in this regard — Proper that truthfulness may be worked out before effecting arrest of petitioner — In interest of justice and equity I.O. shall enquire into contention of petitioner to work out truth relating to petitioner within certified period — Till then arrest of petitioner shall not be effected in regard to offences above mentioned.

Indian Penal Code, 1860 — Sections 304B, 498A, 323, 504 and 506 — Dowry Prohibition Act, 1961 — Sections 3, 4.

II (2006) DMC 773 (Allahabad HC) (DB)

- Framing of charge under Section 304B, IPC — Charges for offence under Sections 306, 498A r/w Section 34, IPC already framed against accused — Certificate of death filed by doctor stated probable cause of death to be cardio respiratory failure due to acute respiratory failure — In subsequent certificate different cause of death indicated — Trial Court held prosecution not explained as to how certificate sought to be brought on record after 4 years — Matter relating to production of certificate kept in abeyance to be decided after examination of doctor — Proper for Trial Court to defer question of framing charge under Section 304B, IPC after examination of doctor and relevance of subsequent certificate and its acceptability — High Court failed to consider relevant aspects and dismissed application — Impugned judgment set aside.
- Indian Penal Code, 1860 — Sections 304B, 306, 498A r/w Section 34.

II (2006) DMC 651 (SC)

- Murder, Cruelty — Ill-treatment to deceased on account of dowry demand (see Murder)

II (2006) DMC 705 (Delhi HC) (DB)

DOWRY DEMAND — Once demand of dowry is not there, there is no evidence to back it, question of applicability of Sections 3 and 4 of Dowry Prohibition Act does not arise.

Dowry Prohibition Act, 1961 — Sections 3 and 4.

II (2006) DMC 670 (Karnataka HC) (DB)

- Presumption — Evidence of P.Ws. 2 and 3 disclose that accused 2 and 3 never made demand of dowry at time of marriage or as consideration for marriage — Conviction of accused 1 and 2 for offence under Sections 3 and 4 of Dowry Prohibition Act untenable — Set aside.

Dowry Prohibition Act, 1961 — Sections 3 and 4.

II (2006) DMC 648 (Karnataka HC)

DYING DECLARATION — Salient features required to be considered while assessing reliability of

dying declaration — Discussed.

Evidence Act, 1872 — Section 32.

II (2006) DMC 705 (Delhi HC) (DB)

EVIDENCE — Burden of proof — Murder — Committed in secrecy inside house — Initial burden to establish case would be upon prosecution, but nature and amount of evidence to be led by it to establish charge cannot be of same degree as is required in other cases of circumstantial evidence — Burden would comparatively be of lighter character.

Evidence Act, 1872 — Section 106, Illustration (b).

II (2006) DMC 757 (SC)

— Circumstantial evidence — Murder of Wife by Strangulation — Circumstances unerringly point to guilt of accused and inconsistent with his innocence(*See Murder*)

II (2006) DMC 757 (SC)

— Circumstantial evidence — Principle of law regarding — Discussed.

II (2006) DMC 757 (SC)

— Dying declaration — Burden of proof — Cruelty, Murder — Prosecution placed on record convincing and positive evidence to effect that death of deceased was due to accidental burns — In such case, it is not for accused to come up with his evidence to prove very same thing when that task discharged by prosecution itself by placing evidence to that effect.

Evidence Act, 1872 — Section 32 — Indian Penal Code, 1860 — Sections 498A and 302.

II (2006) DMC 670 (Karnataka HC) (DB)

— Dying Declarations — Evidentiary value — Death by burn injuries (*see Murder*)

II (2006) DMC 670 (Karnataka HC) (DB)

— Dying declarations — No discrepancy in dying declarations, accused can be convicted accused only on basis of dying declarations

Indian Penal Code, 1860 — Sections 302 and 498A — Evidence Act, 1872 — Section 32.

II (2006) DMC 645 (Bombay HC) (DB)

— Dying declaration — Reliability — Death of wife in unnatural circumstances on account of stove burst(*See Murder*)

II (2006) DMC 720 (Karnataka HC) (DB)

— Presumption can be dowry death (*see Dowry Death*)

II (2006) DMC 648 (Karnataka HC)

— Proof — When matter comes to Court, proof is required because proof is cornerstone of Court procedure.

II (2006) DMC 642 (Allahabad HC)

— Six Dying Declarations — Reliability — Dying declarations voluntary and not with pressure (*see Murder*)

II (2006) DMC 705 (Delhi HC) (DB)

— Two dying declarations — Reliability — It is earliest version that has to be given due importance unless there is evidence to show it was found to be not trustworthy one.

Evidence Act, 1872 — Section 32.

II (2006) DMC 670 (Karnataka HC) (DB)

— Unchastity of wife — Burden of proof is on husband as it is he who levels allegations against wife.

Hindu Minority and Guardianship Act, 1956 — Sections 18(2), 18(3) — Evidence Act, 1872 — Section 101.

II (2006) DMC 642 (Allahabad HC)

EX PARTE EVIDENCE — Admissibility — Petition for divorce (*see Desertion*)

II (2006) DMC 718 (Punjab & Haryana HC) (DB)

FRAMING OF CHARGE — At that stage Magistrate cannot consider defence of accused.

Criminal Procedure Code, 1973 — Sections 245(1) and 482 — Indian Penal Code, 1860 — Section 498A — Dowry Prohibition Act, 1961 — Sections 3 and 4.

II (2006) DMC 732 (Patna HC)

— Dowry Death — Charges for offence under Sections 306, 498A r/w Section 34, IPC already framed against accused (*see dowry death*)

II (2006) DMC 651 (SC)

— Murder, Dowry Death, Cruelty — Accused guilty of offence under Section 302, IPC — Charge under Section 302, IPC not framed at right time by State — Accused charged for lesser offence under Section 304B, IPC — As charge under Section 304B is higher manifestation of offence under Section 498A, IPC, charge under Section 498A unwarranted — Conviction under Section 304B, IPC confirmed — No scope to convict accused for higher offences or give any enhanced sentence.

Indian Penal Code, 1860 — Sections 302, 304B and 498A.

II (2006) DMC 648 (Karnataka HC)

INHERENT POWERS — Compounding of offence — Cruelty — In appropriate cases Courts could exercise its inherent powers under Section 482, Cr.P.C. to save institution of marriage.

Criminal Procedure Code, 1973 — Sections 397 and 482 — Indian Penal Code, 1860 — Section 498A.

II (2006) DMC 725 (Kerala HC) (DB)

— Exercise of — Compounding of offence — Section 482, Cr.P.C. confers separate and independent power on High Court to pass order *ex debito justitiae* to secure ends of justice and to prevent abuse of process of Court.

Criminal Procedure Code, 1973 — Sections 320(9) and 482.

II (2006) DMC 725 (Kerala HC) (DB)

— In exercise of inherent powers under Section 482, Cr.P.C. Magistrate cannot consider documents annexed with applications.

Criminal Procedure Code, 1973 — Sections 245(1) and 482 — Indian Penal Code, 1860 — Section 498A — Dowry Prohibition Act, 1961 — Sections 3 and 4.

II (2006) DMC 732 (Patna HC)

— Quashing of order of cognizance and proceedings — Criminal breach of trust, theft, cruelty, dowry demand — Complainant and her husband resolved their differences — No useful purpose would be served by continuance of criminal prosecution — It could have detrimental effect on restored harmony — Appropriate case to exercise inherent powers by this Court under Section 482, Criminal Procedure Code to quash order of cognizance and entire proceedings in complaint case.

Criminal Procedure Code, 1973 — Section 482 — Indian Penal Code, 1860 — Sections 406, 379 and 498A — Dowry Prohibition Act, 1961 — Sections 3 and 4.

II (2006) DMC 742 (Patna HC)

KNOWLEDGE TO CAUSE DEATH — Alteration in conviction — No direct nexus between

injury sustained on vital part *i.e.*, head with injuries resulting in death *i.e.*, injuries on lung and liver — On account of some quarrel between husband and wife, accused inflicted injury with aid of brick or by some blunt object — Accused had no knowledge by inflicting those injuries deceased would die — Deceased died 4 days after sustaining injuries — Proper care and medical treatment would have cured deceased — In-laws show their inability to arrange money for her medical treatment — Accused was having intention only to cause bodily injuries to deceased and had no knowledge that by inflicting such injuries she would die — Conviction of accused recorded under Section 304 Part II instead of Section 304 Part I, I.P.C.

Indian Penal Code, 1860 — Sections 304 Part II, 304 Part I ;

II (2006) DMC 783 (Rajasthan HC)

MAINTENANCE — Daughter — Grant of — Girl is around 16-17 years of age — Provision to be made for her marriage also besides education and other living expenses — Amount granted by Trial Court is meagre and raised to Rs. 2,500 each in case of daughter and wife — Husband will of course bear expenses of marriage of his daughter when time comes

Hindu Minority and Guardianship Act, 1956 — Sections 18(2), 18(3) — Evidence Act, 1872 — Section 101.

II (2006) DMC 642 (Allahabad HC)

— Expression “wife” — Does not include wife of second marriage if first marriage survives and first wife is living.

Criminal Procedure Code, 1973 — Section 125.

II (2006) DMC 751 (Gauhati HC)

— Grant of — Revision against order of Family Court directing payment of maintenance to wife — Finding of Court, wife subjected to cruelty and torture had to leave matrimonial home — No illegality or irregularity in same — Order of family Court upheld.

Criminal Procedure Code, 1973 — Section 125.

II (2006) DMC 792 (Jharkhand HC)

— Guidelines for determination of question of maintenance — Discussed.

Hindu Minority and Guardianship Act, 1956 — Section 23.

II (2006) DMC 642 (Allahabad HC)

— Legitimacy of child is Irrelevant for purpose of grant of maintenance under Section 20 of Hindu Minority and Guardianship Act

II (2006) DMC 642 (Allahabad HC)

— Maintenance of Revision Petition — Order passed by Family Court — Appropriate Forum — Petition under Section 482, Cr.P.C. against refusal to pay maintenance not maintainable — Petition under Section 482, Cr.P.C. in garb of revision not maintainable when there is clear-cut provision of appeal/revision as contained in Section 19 of Family Courts Act.

Criminal Procedure Code, 1973 — Sections 482 and 125 — Family Courts Act, 1984 — Section 19.

II (2006) DMC 696 (Jharkhand HC)

— Muslim wife — Talaq — As per pronouncement of Apex Court in *Shamim Ara* case, V (2002) SLT 538=IV (2002) CCR 105 (SC), it is question of fact to be proved by evidence whether Talaq asserted by husband is “Talaq” within meaning of Muslim Law liable to be acted upon — Unless and until necessary requirements proved, Talaq under reference may not be actionable — Order passed by Revisional Court liable to be interfered with being not in line with law laid down in *Shamim Ara* case — Impugned order set aside.

Criminal Procedure Code, 1973 — Sections 125 — Muslim Women (Protection of Rights on

Divorce) Act, 1986 — Sections 4 and 5.

II (2006) DMC 698 (Madhya Pradesh HC)

- Second wife — Second wife disentitled to receive any maintenance only when husband satisfactorily proves the subsistence of legal and valid marriage — Husband's plea that he did not know respondent and married to some other lady — No evidence produced for same — Evidence of marriage and living together brought on record by wife — Wife also established conjugal relation between two — Wife entitled to maintenance.

Criminal Procedure Code, 1973 — Section 125.

II (2006) DMC 751 (Gauhati HC)

- Submission that wife left her matrimonial home on her own volition, afterthought and taken with view to avoid paying maintenance to O.P. No. 2 wife — No material before Court to show petitioner is only labourer and could not pay amount of Rs. 1,000 which is not on higher side to O.P. No. 2 wife.

Criminal Procedure Code, 1973 — Section 125.

II (2006) DMC 735 (Jharkhand HC)

- *Suo motu* Court can grant maintenance, even if it is not claimed.

II (2006) DMC 642 (Allahabad HC)

- Transfer of Case — Wife is given choice to file petition under Section 125, Cr.P.C. at her choice in any of places, viz., where her husband is staying or where she resides or wife and husband last resided — Wife residing at Kakinada and dependant upon her parents — She is finding it difficult to travel from this place to Kurnool — Wife also apprehends danger to her life — Suit transferred accordingly to Kakinada from Kurnool.

Criminal Procedure Code, 1973 — Sections 125, 407.

II (2006) DMC 655 (Andhra Pradesh HC)

MOHAMMEDAN LAW — Remarriage — Validity — Staying together as husband and wife — Subject matter for trial to be decided on basis of materials and evidence led before Court.

II (2006) DMC 780 (Patna HC)

MURDER — Cruelty — Dying declaration — Burden of proof (*see Evidence*)

II (2006) DMC 670 (Karnataka HC) (DB)

- Cruelty, Common Intention, Dowry Demand — Dying declaration — Excepting uncorroborated dying declaration made by deceased before P.W. 2, no other evidence on record to indicate as to cause of death of deceased — Evidence on record does not establish beyond all reasonable doubt that deceased died in homicidal death — Positive evidence placed by prosecution is to effect that deceased died due to accidental burns — Medical evidence clearly ruled out homicidal death of deceased — No reason to interfere with order of acquittal passed by Trial Court.

Indian Penal Code, 1860 — Sections 302 and 498A r/w Section 34 — Dowry Prohibition Act, 1961 — Sections 3 and 4 — Evidence Act, 1872 — Section 32.

II (2006) DMC 670 (Karnataka HC) (DB)

- Cruelty — Murder of Wife by Strangulation — Circumstantial Evidence — Post-mortem examination conducted on body of deceased disclosed she died due to asphyxia as result of compression of neck and not on account of snake bite — Allegation of demand of Rs. 25,000/- by appellant and his parents from parents of deceased — Ill-treatment of deceased due to non-fulfillment of same — Deceased had told her parents about being ill-treated and occasionally not given food whenever she visited her parental home — Dead body of deceased purposely placed in sitting posture with her back taking support of wall so that no one may suspect that she had actually been killed as result of strangulation and may believe in version of snake bite given by appellant and his parents — Recovery of some articles of deceased made at instance of appellant — Circumstances enumerated unerringly point to guilt of accused and they are inconsistent with his innocence — High Court perfectly right in allowing appeal filed by State and in convicting

appellant under Section 302, IPC and sentencing him thereunder.

Indian Penal Code, 1860 — Sections 302, 498A — Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Act, 1970 — Section 2(a).

II (2006) DMC 757 (SC)

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Indian Penal Code, 1860 — Sections 302, 304B and 498A — Evidence Act, 1872 — Section 32.

II (2006) DMC 720 (Karnataka HC) (DB)

- Dowry Death, Cruelty — Six Dying Declarations — Death of deceased caused by pouring kerosene oil on her body and igniting fire — Deceased sustained 100% burn injuries — Real sister of deceased, her parents and brother had to support defence story because they were scared of appellants and their family members — They made statements under pressure from appellants as deceased's younger sister also married to brother-in-law of deceased — No inkling in evidence on record that SDM got enmity or hostility with appellant — He is independent public officer and no reason to discard his statement — He is guileless witness — He should have recorded dying declarations in question-answer form, however, mere omission is not fatal — It stands established that dying declaration made before SDM is voluntary and dying declaration made before Investigating Officer or before Doctor given under pressure and influence of in-laws — Statement made by SDM in his cross-examination remains unrebutted that none else was present when he recorded statement of deceased — Investigating Officer stated he was present at time when SDM recorded statement — Defence story appears to be false from clew to earing — Appellants took long to bring deceased to hospital *i.e.* nearly hour and 40 minutes considering distance being of nearly 8 kms. — Plea of appellants that they promptly rushed deceased to hospital and their conduct was not guilty does not cut any ice — Evidence of PWs reliable — It is doubtful as to why all DWs did not report matter to police or higher authorities — Their evidence does not match with circumstances existing at time of incident — Appellants failed to make out any case or ground for setting aside reasoned judgment of Trial Court.

Indian Penal Code, 1860 — Sections 302, 304B, 498A .

II (2006) DMC 705 (Delhi HC) (DB)

- Dying declarations — No discrepancy — Court can convict accused only on basis of dying declarations — Apart from two dying declarations, there is evidence in form of statement of P.W. 2 to indicate appellant committed said offence — Evidence clearly indicates appellant was an alcoholic and used to ill-treat his wife and assault her — This conduct of appellant also stated by P.W. 5, mother of deceased — Prosecution established beyond reasonable doubt that appellant committed murder of his wife by pouring kerosene on her and setting her on fire — Judgment and order of Sessions Court confirmed.

Indian Penal Code, 1860 — Sections 302 and 498A — Evidence Act, 1872 — Section 32.

II (2006) DMC 645 (Bombay HC) (DB)

- MUTUAL CONSENT** — Amendment of petition — Petition for divorce converted to one under Section 13B, Hindu Marriage Act — Waiting period of 6 months also waived — Parties present in person and through their Counsel submitted they are unable to live together and their marriage should be dissolved by decree of divorce by mutual consent since joint application filed more than 6 months back — Parties also settled their outstanding disputes — Larned Counsel for

appellant submits in event of husband filing application under Section 482, Cr.P.C. for quashing of FIR and proceedings under Section 406, 498A, IPC arising out of FIR, she shall not oppose quashing thereof.

Hindu Marriage Act, 1955 — Section 13B — Civil Procedure Code, 1908 — Order 6 Rule 17.

II (2006) DMC 745 (Punjab & Haryana HC) (DB)

PERMANENT ALIMONY — Quantum — Determination — Marriage between parties dissolved — Appellant-husband earns Rs. 6,000 through his business — Respondent-wife earning about Rs. 2,000 p.m. by doing work of sewing, knitting and training other ladies by doing work in Sahyogini in Mahila Samakhya — This cannot be said to be regular source of income — Amount of Rs. 1,000 granted by District Judge in favour of respondent-wife — This amount cannot be reduced to meagre sum of Rs. 500 p.m. — Respondent cannot be expected to live without dignity with that meagre amount — In interest of justice it is just and proper to allow petitioner to pay arrears of unpaid alimony in four quarterly instalments from date this order is passed.

Hindu Marriage Act, 1955 — Sections 25, 28.

II (2006) DMC 687 (Uttaranchal HC) (DB)

POWERS OF MAGISTRATE — Discharge — Cruelty, Dowry Demand — At stage of issuance of process, Magistrate mainly concerned with allegations in complaint petition and evidence led in support of same and *prima facie* satisfied about sufficient ground for proceeding against accused — Magistrate cannot consider defence of accused — He can discharge accused if after taking evidence adduced by prosecution he finds no offence made out against accused.

Criminal Procedure Code, 1973 — Sections 245(1) and 482 — Indian Penal Code, 1860 — Section 498A — Dowry Prohibition Act, 1961 — Sections 3 and 4.

II (2006) DMC 732 (Patna HC)

PRACTICE AND PROCEDURE — Maintenance — Grant of — Court can *suo motu* grant maintenance, even if it is not claimed.

II (2006) DMC 642 (Allahabad HC)

QUASHING OF ORDER OF COGNIZANCE AND PROCEEDINGS — Criminal breach of trust, theft, cruelty, dowry demand — Complainant and her husband resolved their differences(See *Inherent Powers*)

II (2006) DMC 742 (Patna HC)

QUASHING OF PROCEEDINGS — Amicable settlement of dispute — Affidavit of respondent wife stating parties have amicably sorted out all differences and settled dispute and decided to take divorce by mutual consent — No reason and ground to reject prayer made by petitioners and respondent No. 1 in particular — Proceedings pending before Metropolitan Magistrate quashed.

Indian Penal Code, 1860 — Sections 498A, 323, 504 r/w Section 34.

II (2006) DMC 731 (Bombay HC)

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Criminal Procedure Code, 1973 — Sections 482, 320 — Indian Penal Code, 1860 — Section 498A.

II (2006) DMC 653 (Allahabad HC)

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(2006) SLT 161=I (2006) DMC 327 (SC) — Marriage of petitioner directed to be registered by respondent not later than 15 days *i.e.* 26.10.2006.

Delhi Hindu Marriage Registration Rules, 1956 — Clause 7(vi) Form A — Hindu Marriage Act, 1955 — Sections 8, 19.

II (2006) DMC 689 (Delhi HC) (DB)

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II (2006) DMC 696 (Jharkhand HC)

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Hindu Minority and Guardianship Act, 1956 — Sections 18(2), 18(3) — Evidence Act, 1872 — Section 101.

II (2006) DMC 642 (Allahabad HC)

SPECIAL MARRIAGE — Will made by Muslim married under Special Marriage Act needs to be probated — Muslim married under Special Marriage Act entitled to bequeath his entire property — All rigours of Indian Succession Act applicable — Defendant No. 1 would have to establish his right only after obtaining probate of Will of deceased — Conclusions drawn by Court.

Special Marriage Act, 1954 — Sections 18 and 21 — Indian Succession Act, 1925 — Sections 213 and 213(2).

II (2006) DMC 701 (Bombay HC)

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II (2006) DMC 698 (Madhya Pradesh HC)

TRANSFER OF CASE — Maintenance — Wife is given choice to file petition under Section 125, Cr.P.C. at her choice in any of places, *viz.*, where her husband is staying or where she resides or wife and husband last resided.

Criminal Procedure Code, 1973 — Sections 125, 407.

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II (2006) DMC 737 (Bombay HC) (DB)

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II (2006) DMC 745 (Punjab & Haryana HC) (DB)

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II (2006) DMC 698 (Madhya Pradesh HC)

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- **Section 125** — Maintenance to second wife — Second wife disentitled to receive any maintenance only when husband satisfactorily proves the subsistence of legal and valid marriage — Husband’s plea that he did not know respondent and married to some other lady — No evidence produced for same — Evidence of marriage and living together brought on record by wife — Wife also established conjugal relation between two — Wife entitled to maintenance.

II (2006) DMC 751 (Gauhati HC)

- **Section 125** — Maintenance — Expression “wife” — Does not include wife of second marriage if first marriage survives and first wife is living.

II (2006) DMC 751 (Gauhati HC)

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II (2006) DMC 792 (Jharkhand HC)

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II (2006) DMC 732 (Patna HC)

- Indian Penal Code, 1860 — Sections 498A, 506(1), 342, 323, 324 r/w Section 34 — **Criminal Procedure Code, 1973 — Sections 320 and 482** — Cruelty, Criminal Intimidation, Hurt, Common Intention — Compounding of offence — Inherent powers — Husband and wife reunited and living peacefully with their daughter and family members — Appropriate to accept request of petitioners for compounding offences to meet ends of justice.

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II (2006) DMC 770 (Patna HC)

- **Sections 320(1), 320(2), 320(9)** — Compounding of Offence — Criminal Courts exercising original, appellate or revisional powers under Cr.P.C. cannot bypass Section 320, Cr.P.C. and compound non-compoundable offence.

II (2006) DMC 725 (Kerala HC) (DB)

- **Sections 320(9) and 482** — Inherent Powers — Exercise of — Compounding of offence — Section 482, Cr.P.C. confers separate and independent power on High Court to pass order *ex debito justitiae* to secure ends of justice and to prevent abuse of process of Court.

II (2006) DMC 725 (Kerala HC) (DB)

- **Sections 397 and 482** — Indian Penal Code, 1860 — Section 498A — Revisional Powers, Inherent powers — Cruelty — Offence under Section 498A, IPC non-compoundable — Court should examine whether request is *bona fide* and not intended to get out of clutches of law — Courts must see power under Section 482, Cr.P.C. not misused — Court cannot exercise powers under Section 397, Cr.P.C. so as to compound non-compoundable offence under Section 320,

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II (2006) DMC 725 (Kerala HC) (DB)

- **Section 482** — Indian Penal Code, 1860 — Sections 406, 379 and 498A — Dowry Prohibition Act, 1961 — Sections 3 and 4 — Inherent Powers — Quashing of order of cognizance and proceedings — Criminal breach of trust, theft, cruelty, dowry demand — Complainant and her husband resolved their differences — No useful purpose would be served by continuance of criminal prosecution — It could have detrimental effect on restored harmony — Appropriate case to exercise inherent powers by this Court under Section 482, Criminal Procedure Code to quash order of cognizance and entire proceedings in complaint case.

II (2006) DMC 742 (Patna HC)

- **Sections 482 and 125** — Family Courts Act, 1984 — Section 19 — Revision — Maintainability — Order passed by Family Court — Appropriate Forum — Maintenance — Petition under Section 482, Cr.P.C. against refusal to pay maintenance not maintainable — Petition under Section 482, Cr.P.C. in garb of revision not maintainable when there is clear-cut provision of appeal/revision as contained in Section 19 of Family Courts Act.

II (2006) DMC 696 (Jharkhand HC)

- **Sections 482, 320** — Indian Penal Code, 1860 — Section 498A — Quashing of Summoning Order — Compounding of offence — Cruelty — Compromise between parties and they wanted to live peacefully — Though offence under Section 498A is not compoundable still bar created by Section 320, Cr.P.C. would not come in way — Considering facts and special features, chances of ultimate conviction is bleak and no useful purpose likely to be served by allowing criminal prosecution to continue — Summons quashed.

II (2006) DMC 653 (Allahabad HC)

Delhi Hindu Marriage Registration Rules, 1956

- **Clause 7(vi) Form A** — Hindu Marriage Act, 1955 — Sections 8, 19 — Registration of Marriage — Effect of addition of Sub-clause (vi) in Clause 7 of Form A by Amendment — Interpretation of Sub-clause (vi) — Section 19 of H.M. Act furnishes clue to interpretation of Section 8 of Act — Registration of marriage of parties cannot be denied whose marriage is solemnised in Delhi, whether or not parties to marriage or their parents are residents of Delhi, so as to escape from vice of unconstitutionality as well being *ultra vires* Section 8 of Act and violative of principles laid down by Supreme Court in *Seema v. Ashwini Kumar*, II (2006) SLT 161=I (2006) DMC 327 (SC) — Marriage of petitioner directed to be registered by respondent not later than 15 days *i.e.* 26.10.2006.

II (2006) DMC 689 (Delhi HC) (DB)

Dowry Prohibition Act, 1961

- **Sections 3 and 4** — Demand — Presumption — Evidence of P.Ws. 2 and 3 disclose that accused 2 and 3 never made demand of dowry at time of marriage or as consideration for marriage — Conviction of accused 1 and 2 for offence under Sections 3 and 4 of Dowry Prohibition Act untenable — Set aside.

II (2006) DMC 648 (Karnataka HC)

- Indian Penal Code, 1860 — Sections 302 and 498A r/w Section 34 — **Dowry Prohibition Act, 1961** — **Sections 3 and 4** — Evidence Act, 1872 — Section 32 — Murder, Cruelty, Common Intention, Dowry Demand — Dying declaration — Excepting uncorroborated dying declaration made by deceased before P.W. 2, no other evidence on record to indicate as to cause of death of deceased — Evidence on record does not establish beyond all reasonable doubt that deceased died in homicidal death — Positive evidence placed by prosecution is to effect that deceased died due to accidental burns — Medical evidence clearly ruled out homicidal death of deceased — No reason to interfere with order of acquittal passed by Trial Court.

II (2006) DMC 670 (Karnataka HC) (DB)

- **Sections 3 and 4** — Dowry Demand — Once demand of dowry is not there, there is no evidence to back it, question of applicability of Sections 3 and 4 of Dowry Prohibition Act does not arise.

II (2006) DMC 670 (Karnataka HC) (DB)

- Criminal Procedure Code, 1973 — Sections 245(1) and 482 — Indian Penal Code, 1860 — Section 498A — **Dowry Prohibition Act, 1961 — Sections 3 and 4** — Powers of Magistrate — Discharge — Issue of process/framing of charge — Inherent Powers — Cruelty, Demand of Dowry — At stage of issuance of process, Magistrate mainly concerned with allegations in complaint petition and evidence led in support of same and *prima facie* satisfied about sufficient ground for proceeding against accused — Magistrate cannot consider defence of accused — He can discharge accused if after taking evidence adduced by prosecution he finds no offence made out against accused — In exercise of inherent powers under Section 482, Cr.P.C. Magistrate cannot consider documents annexed with applications — Allegations in complaint petition disclose above offence and complainant in her statement supported allegations, no infirmity in impugned order issuing process against petitioners — Only because petitioner No. 1 filed matrimonial case before filing of complaint, not sufficient to hold complaint is afterthought or *mala fide* when due to bitter feelings between parties police had to be informed long before filing of complaint petition.

II (2006) DMC 732 (Patna HC)

- Criminal Procedure Code, 1973 — Section 482 — Indian Penal Code, 1860 — Sections 406, 379 and 498A — **Dowry Prohibition Act, 1961 — Sections 3 and 4** — Inherent Powers — Quashing of order of cognizance and proceedings — Criminal breach of trust, theft, cruelty, dowry demand — Complainant and her husband resolved their differences — No useful purpose would be served by continuance of criminal prosecution — It could have detrimental effect on restored harmony — Appropriate case to exercise inherent powers by this Court under Section 482, Criminal Procedure Code to quash order of cognizance and entire proceedings in complaint case.

II (2006) DMC 742 (Patna HC)

- Criminal Procedure Code, 1973 — Sections 320 and 482 — Indian Penal Code, 1860 — Sections 498A — **Dowry Prohibition Act, 1961 — Sections 3, 4** — Quashing of order granting permission to petitioner to withdraw complaint — Cruelty, dowry demand — Non-compoundable offences — No compromise petition in this connection can be allowed — Section 321, Cr. P.C. specifically provides only P.P. or Addl. P.P. can withdraw case — Prayer for compounding offence rejected by Court below on ground that no compromise petition produced before him — Under Section 482, Cr.P.C. Court can quash criminal proceeding of complaint without limiting provision under Section 320, Cr.P.C. — When decree for dissolution of marriage passed and compromise petition became part of decree — Complaint petition and prosecution pending against O.P. No. 2 quashed.

II (2006) DMC 770 (Patna HC)

- Indian Penal Code, 1860 — Sections 304B, 498A, 323, 504 and 506 — **Dowry Prohibition Act, 1961 — Sections 3, 4** — Dowry Death, Cruelty, Hurt, Criminal Intimidation — Petitioner raised convincing ground of his non-presence/non-participation in alleged offence — Petitioner is Junior Commissioned Officer in Indian Army, his younger son was suffering from kidney trouble — Petitioner and his wife donated their kidneys to him and admitted in hospital during 2003-2004 — Affidavit filed in support of same — He was on duty at Gujarat at that time — There was no occasion for them to indulge in alleged offence — Responsible military officer issued certificate in this regard — Proper that truthfulness may be worked out before effecting arrest of petitioner — In interest of justice and equity I.O. shall enquire into contention of petitioner to work out truth relating to petitioner within certified period — Till then arrest of petitioner shall not be effected in regard to offences above mentioned.

II (2006) DMC 773 (Allahabad HC) (DB)

Evidence Act, 1872

- Indian Penal Code, 1860 — Sections 302 and 498A — **Evidence Act, 1872 — Section 32** — Murder, Cruelty — Dying declarations — No discrepancy — Court can convict accused only on basis of dying declarations — Apart from two dying declarations, there is evidence in form of statement of P.W. 2 to indicate appellant committed said offence — Evidence clearly indicates appellant was an alcoholic and used to ill-treat his wife and assault her — This conduct of appellant also stated by P.W. 5, mother of deceased — Prosecution established beyond reasonable doubt that appellant committed murder of his wife by pouring kerosene on her and setting her on fire — Judgment and order of Sessions Court confirmed.

II (2006) DMC 645 (Bombay HC) (DB)

- **Section 32** — Indian Penal Code, 1860 — Sections 498A and 302 — Dying declaration — Murder, Cruelty — Prosecution placed on record convincing and positive evidence to effect that death of deceased was due to accidental burns — In such case, it is not for accused to come up with his evidence to prove very same thing when that task discharged by prosecution itself by placing evidence to that effect.

II (2006) DMC 670 (Karnataka HC) (DB)

- Indian Penal Code, 1860 — Sections 302 and 498A r/w Section 34 — Dowry Prohibition Act, 1961 — Sections 3 and 4 — **Evidence Act, 1872 — Section 32** — Murder, Cruelty, Common Intention, Dowry Demand — Dying declaration — Excepting uncorroborated dying declaration made by deceased before P.W. 2, no other evidence on record to indicate as to cause of death of deceased — Evidence on record does not establish beyond all reasonable doubt that deceased died in homicidal death — Positive evidence placed by prosecution is to effect that deceased died due to accidental burns — Medical evidence clearly ruled out homicidal death of deceased — No reason to interfere with order of acquittal passed by Trial Court.

II (2006) DMC 670 (Karnataka HC) (DB)

- **Section 32** — Two dying declarations — Reliability — It is earliest version that has to be given due importance unless there is evidence to show it was found to be not trustworthy one.

II (2006) DMC 670 (Karnataka HC) (DB)

- **Section 32** — Dying Declaration — Salient features required to be considered while assessing reliability of dying declaration — Discussed.

II (2006) DMC 705 (Delhi HC) (DB)

- Indian Penal Code, 1860 — Sections 302, 304B and 498A — **Evidence Act, 1872 — Section 32** — Murder, Dowry Death, Cruelty — Dying declaration — Appeal against acquittal — Deceased died due to injuries caused on account of stove burst — Dying declaration made by deceased not supported by Police Officer who recorded same and doctor before whom statement of deceased recorded as per FIR not examined — Prosecution case suffered from serious blows on account of various lapses — Prosecution lost valuable evidence in form of dying declaration not been placed and marked during trial — Only positive evidence placed on record and marked through P.W. 10, said document does not implicate accused either with harassment given to deceased on account of demand of dowry or ill-treatment given to deceased by her husband — Investigating agency and prosecuting agency failed to place necessary evidence before Court, though available, contributed to case ending up in acquittal 7 years ago — Judgment of Trial Court confirmed.

II (2006) DMC 720 (Karnataka HC) (DB)

- Hindu Minority and Guardianship Act, 1956 — Sections 18(2), 18(3) — **Evidence Act, 1872 — Section 101** — Separate Residence and Maintenance of Wife — Entitlement — Quantum — Enhancement — Husband hurled charges of infidelity against her — Conduct cruel enough to justify wife's demand to live separately and to receive maintenance — Burden of proof is on husband who levels such allegations of unchastity against wife — No proof except bare allegation — Hitch placed by Section 18(3) of Act cannot obstruct grant of maintenance to wife — Girl *i.e.* daughter is around 16-17 years of age — Provision to be made for her marriage also

besides education and other living expenses — Amount granted by Trial Court is meagre and raised to Rs. 2,500 each in case of daughter and wife — Husband will of course bear expenses of marriage of his daughter when time comes — Amount to be deducted from his monthly salary from date of this order.

II (2006) DMC 642 (Allahabad HC)

- Evidence — Burden of proof — Murder — Committed in secrecy inside house — Initial burden to establish case would be upon prosecution, but nature and amount of evidence to be led by it to establish charge cannot be of same degree as is required in other cases of circumstantial evidence — Burden would comparatively be of lighter character — **Evidence Act, 1872 — Section 106, Illustration (b).**

II (2006) DMC 757 (SC)

- Indian Penal Code, 1860 — Section 304B r/w Sections 34 and 498A — **Evidence Act, 1872 — Section 113B** — Dowry Death, Cruelty, Common Intention — Presumption — Appreciation of Evidence — Evidence of PW 9 does not incriminate accused 2 and 3, that they abetted assault in any manner — In usual manner they taunted deceased to insist upon her father to keep up promise — Said conduct does not amount to offence of cruelty under Section 498A, IPC — Conduct of accused 2 and 3 as per evidence does not disclose they are guilty of offence under Section 304B, IPC or abetting commission of such offence — Conviction of accused 2 and 3 bad in law and set aside.

II (2006) DMC 648 (Karnataka HC)

Family Courts Act, 1984

- Criminal Procedure Code, 1973 — Sections 482 and 125 — **Family Courts Act, 1984 — Section 19** — Revision — Maintainability — Order passed by Family Court — Appropriate Forum — Maintenance — Petition under Section 482, Cr.P.C. against refusal to pay maintenance not maintainable — Petition under Section 482, Cr.P.C. in garb of revision not maintainable when there is clear-cut provision of appeal/revision as contained in Section 19 of Family Courts Act.

II (2006) DMC 696 (Jharkhand HC)

Hindu Marriage Act, 1955

- Delhi Hindu Marriage Registration Rules, 1956 — Clause 7(vi) Form A — **Hindu Marriage Act, 1955 — Sections 8, 19** — Registration of Marriage — Effect of addition of Sub-clause (vi) in Clause 7 of Form A by Amendment — Interpretation of Sub-clause (vi) — Section 19 of H.M. Act furnishes clue to interpretation of Section 8 of Act — Registration of marriage of parties cannot be denied whose marriage is solemnised in Delhi, whether or not parties to marriage or their parents are residents of Delhi, so as to escape from vice of unconstitutionality as well being *ultra vires* Section 8 of Act and violative of principles laid down by Supreme Court in *Seema v. Ashwini Kumar*, II (2006) SLT 161=I (2006) DMC 327 (SC) — Marriage of petitioner directed to be registered by respondent not later than 15 days *i.e.* 26.10.2006.

II (2006) DMC 689 (Delhi HC) (DB)

- **Section 13(1)(ia)** — Cruelty — No straitjacket formula of what is cruelty — Single or even isolated acts of grave severity can constitute cruelty — However, on other hand whole body of evidence may not measure upto required standard to constitute cruelty.

II (2006) DMC 659 (Delhi HC)

- **Section 13(1)(ia)** — Cruelty — Financial status of respondent higher than family of appellant — Marriage solemnized on 9.5.2002 and both parties remained together upto 18.8.2002 happily — Appellant (wife) left house with permission of respondent (husband) when mother of appellant came to take her for Rakshabandhan — It cannot be said appellant treated respondent within cruelty — Even if both incidents of alleged cruelty accepted for sake of arguments that allegations made by respondent are true, it can be safely said at both occasions appellant was having no role to play — It cannot be said appellant treated respondent with cruelty — Judgment

and decree passed by 1st ADJ set aside.

II (2006) DMC 793 (Madhya Pradesh HC)

- **Sections 13(1)(ia), 28** — Cruelty — False allegations of unfaithfulness with calculation and deliberation levelled by appellant-husband against wife, for purpose of matrimonial proceedings — Allegations of cruelty by wife may be classified into 4 categories, viz., inability and unwillingness to help in household chores and non-cooperation with appellant during visits by his friends, demand to live separately, violent behaviour including suicidal tendency, unfaithfulness — Evidence on unwillingness to help in household chores is sketchy and vague — Neither of appellant parents deposed in proceedings — As regard allegation that wife demanded to live separately not corroborated by any other evidence except sole deposition of appellant — Further, allegation as to suicidal tendency of wife also uncorroborated by testimony of any witness — Wife evidence more plausible in this regard — Most serious allegation levelled by husband against wife is her alleged “affair” with man of approximately 65 years of age — He knows respondent’s wife from her childhood, being neighbour of her father — Respondent being working woman and in course of employment would surely be interacting with several male colleagues — Mere meetings or outings cannot be seen by reasonably placed person as acts of mental cruelty — Such allegations deplorable and reveal his motive in painting wife in darkest of hues, at any cost — Appellant levelled allegations of unfaithfulness with calculation knowing fully well they were not true — Letters written by wife to her father not challenged by appellant — Allegations in entirety do not cumulatively point to persistently cruel behaviour — Appellant shall pay cost of Rs. 20,000/- to respondent as cost of appeal.

II (2006) DMC 659 (Delhi HC)

- **Sections 13(1)(ib), 23(1)(c)** — Desertion — Woman deserted by her husband for 5 years before she lodged divorce petition — Husband not bothered about her and her daughter during this period — Petitioner was not seeking any permanent or temporary alimony but simply release from matrimonial bond — Trial Judge took strict legalistic view of provisions of Hindu Marriage Act and overlooked social aspects of case holding not to grant collusive decree of divorce — There is *de facto* consent between parties for divorce although petition was not on basis of mutual consent and was collusive one — Respondent’s mother on basis of instructions from respondent, instructed Counsel to agree to divorce — This is unusual procedure but in light of *ex parte* evidence recorded by Trial Court and realities of life, lenient view may be taken and provisions of Section 23(1)(c) be overlooked — Judgment of ADJ set aside — Petition for divorce filed by appellant wife accepted — Marriage between parties dissolved by decree of divorce.

II (2006) DMC 718 (Punjab & Haryana HC) (DB)

- **Section 13B** — Civil Procedure Code, 1908 — Order 6 Rule 17 — Divorce by Mutual Consent — Amendment of petition — Petition for divorce converted to one under Section 13B, Hindu Marriage Act — Waiting period of 6 months also waived — Parties present in person and through their Counsel submitted they are unable to live together and their marriage should be dissolved by decree of divorce by mutual consent since joint application filed more than 6 months back — Parties also settled their outstanding disputes — Larned Counsel for appellant submits in event of husband filing application under Section 482, Cr.P.C. for quashing of FIR and proceedings under Section 406, 498A, IPC arising out of FIR, she shall not oppose quashing thereof.

II (2006) DMC 745 (Punjab & Haryana HC) (DB)

- **Sections 25, 28** — Permanent Alimony — Quantum — Determination — Marriage between parties dissolved — Appellant-husband earns Rs. 6,000 through his business — Respondent-wife earning about Rs. 2,000 p.m. by doing work of sewing, knitting and training other ladies by doing work in Sahyogini in Mahila Samakhya — This cannot be said to be regular source of income — Amount of Rs. 1,000 granted by District Judge in favour of respondent-wife — This amount cannot be reduced to meagre sum of Rs. 500 p.m. — Respondent cannot be expected to live without dignity with that meagre amount — In interest of justice it is just and proper to allow

petitioner to pay arrears of unpaid alimony in four quarterly instalments from date this order is passed.

II (2006) DMC 687 (Uttaranchal HC) (DB)

Hindu Minority and Guardianship Act, 1956

- **Sections 18 and 20** — Maintenance — Legitimacy of child — Irrelevant for purpose of case — Section 20 makes no discrimination between legitimate or illegitimate child for grant of maintenance.

II (2006) DMC 642 (Allahabad HC)

- **Sections 18(2), 18(3)** — Evidence Act, 1872 — Section 101 — Separate Residence and Maintenance of Wife — Entitlement — Quantum — Enhancement — Husband hurled charges of infidelity against her — Conduct cruel enough to justify wife's demand to live separately and to receive maintenance — Burden of proof is on husband who levels such allegations of unchastity against wife — No proof except bare allegation — Hitch placed by Section 18(3) of Act cannot obstruct grant of maintenance to wife — Girl *i.e.* daughter is around 16-17 years of age — Provision to be made for her marriage also besides education and other living expenses — Amount granted by Trial Court is meagre and raised to Rs. 2,500 each in case of daughter and wife — Husband will of course bear expenses of marriage of his daughter when time comes — Amount to be deducted from his monthly salary from date of this order.

II (2006) DMC 642 (Allahabad HC)

- **Section 23** — Maintenance — Guidelines for determination of question of maintenance — Discussed.

II (2006) DMC 642 (Allahabad HC)

Indian Penal Code, 1860

- **Sections 302, 304B and 498A** — Murder, Dowry Death, Cruelty — Accused guilty of offence under Section 302, IPC — Charge under Section 302, IPC not framed at right time by State — Accused charged for lesser offence under Section 304B, IPC — As charge under Section 304B is higher manifestation of offence under Section 498A, IPC, charge under Section 498A unwarranted — Conviction under Section 304B, IPC confirmed — No scope to convict accused for higher offences or give any enhanced sentence.

II (2006) DMC 648 (Karnataka HC)

- **Sections 302, 304B, 498A** — Murder, Dowry Death, Cruelty — Six Dying Declarations — Death of deceased caused by pouring kerosene oil on her body and igniting fire — Deceased sustained 100% burn injuries — Real sister of deceased, her parents and brother had to support defence story because they were scared of appellants and their family members — They made statements under pressure from appellants as deceased's younger sister also married to brother-in-law of deceased — No inkling in evidence on record that SDM got enmity or hostility with appellant — He is independent public officer and no reason to discard his statement — He is guileless witness — He should have recorded dying declarations in question-answer form, however, mere omission is not fatal — It stands established that dying declaration made before SDM is voluntary and dying declaration made before Investigating Officer or before Doctor given under pressure and influence of in-laws — Statement made by SDM in his cross-examination remains un rebutted that none else was present when he recorded statement of deceased — Investigating Officer stated he was present at time when SDM recorded statement — Defence story appears to be false from clew to earing — Appellants took long to bring deceased to hospital *i.e.* nearly hour and 40 minutes considering distance being of nearly 8 kms. — Plea of appellants that they promptly rushed deceased to hospital and their conduct was not guilty does not cut any ice — Evidence of PWs reliable — It is doubtful as to why all DWs did not report matter to police or higher authorities — Their evidence does not match with circumstances existing at time of incident — Appellants failed to make out any case or ground for setting aside reasoned judgment of Trial Court.

II (2006) DMC 705 (Delhi HC) (DB)

- **Sections 302, 304B and 498A** — Evidence Act, 1872 — Section 32 — Murder, Dowry Death, Cruelty — Dying declaration — Appeal against acquittal — Deceased died due to injuries caused on account of stove burst — Dying declaration made by deceased not supported by Police Officer who recorded same and doctor before whom statement of deceased recorded as per FIR not examined — Prosecution case suffered from serious blows on account of various lapses — Prosecution lost valuable evidence in form of dying declaration not been placed and marked during trial — Only positive evidence placed on record and marked through P.W. 10, said document does not implicate accused either with harassment given to deceased on account of demand of dowry or ill-treatment given to deceased by her husband — Investigating agency and prosecuting agency failed to place necessary evidence before Court, though available, contributed to case ending up in acquittal 7 years ago — Judgment of Trial Court confirmed.

II (2006) DMC 720 (Karnataka HC) (DB)

- **Sections 302 and 498A** — Evidence Act, 1872 — Section 32 — Murder, Cruelty — Dying declarations — No discrepancy — Court can convict accused only on basis of dying declarations — Apart from two dying declarations, there is evidence in form of statement of P.W. 2 to indicate appellant committed said offence — Evidence clearly indicates appellant was an alcoholic and used to ill-treat his wife and assault her — This conduct of appellant also stated by P.W. 5, mother of deceased — Prosecution established beyond reasonable doubt that appellant committed murder of his wife by pouring kerosene on her and setting her on fire — Judgment and order of Sessions Court confirmed.

II (2006) DMC 645 (Bombay HC) (DB)

- Murder of Wife by Strangulation, Cruelty — Circumstantial Evidence — Post-mortem examination conducted on body of deceased disclosed she died due to asphyxia as result of compression of neck and not on account of snake bite — Allegation of demand of Rs. 25,000/- by appellant and his parents from parents of deceased — Ill-treatment of deceased due to non-fulfillment of same — Deceased had told her parents about being ill-treated and occasionally not given food whenever she visited her parental home — Dead body of deceased purposely placed in sitting posture with her back taking support of wall so that no one may suspect that she had actually been killed as result of strangulation and may believe in version of snake bite given by appellant and his parents — Recovery of some articles of deceased made at instance of appellant — Circumstances enumerated unerringly point to guilt of accused and they are inconsistent with his innocence — High Court perfectly right in allowing appeal filed by State and in convicting appellant under Section 302, IPC and sentencing him thereunder — **Indian Penal Code, 1860** — **Sections 302, 498A** — Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Act, 1970 — Section 2(a).

II (2006) DMC 757 (SC)

- **Sections 302 and 498A r/w Section 34** — Dowry Prohibition Act, 1961 — Sections 3 and 4 — Evidence Act, 1872 — Section 32 — Murder, Cruelty, Common Intention, Dowry Demand — Dying declaration — Excepting uncorroborated dying declaration made by deceased before P.W. 2, no other evidence on record to indicate as to cause of death of deceased — Evidence on record does not establish beyond all reasonable doubt that deceased died in homicidal death — Positive evidence placed by prosecution is to effect that deceased died due to accidental burns — Medical evidence clearly ruled out homicidal death of deceased — No reason to interfere with order of acquittal passed by Trial Court.

II (2006) DMC 670 (Karnataka HC) (DB)

- **Sections 304 Part II, 304 Part I** — Knowledge to cause death — Alteration in conviction — No direct nexus between injury sustained on vital part *i.e.*, head with injuries resulting in death *i.e.*, injuries on lung and liver — On account of some quarrel between husband and wife, accused inflicted injury with aid of brick or by some blunt object — Accused had no knowledge by inflicting those injuries deceased would die — Deceased died 4 days after sustaining injuries — Proper care and medical treatment would have cured deceased — In-laws show their inability to arrange money for her medical treatment — Accused was having intention only to cause bodily injuries to deceased and had no knowledge that by inflicting such injuries she would die —

Conviction of accused recorded under Section 304 Part II instead of Section 304 Part I, I.P.C.

II (2006) DMC 783 (Rajasthan HC)

- **Section 304B r/w Sections 34 and 498A** — Evidence Act, 1872 — Section 113B — Dowry Death, Cruelty, Common Intention — Presumption — Appreciation of Evidence — Evidence of PW 9 does not incriminate accused 2 and 3, that they abetted assault in any manner — In usual manner they taunted deceased to insist upon her father to keep up promise — Said conduct does not amount to offence of cruelty under Section 498A, IPC — Conduct of accused 2 and 3 as per evidence does not disclose they are guilty of offence under Section 304B, IPC or abetting commission of such offence — Conviction of accused 2 and 3 bad in law and set aside.

II (2006) DMC 648 (Karnataka HC)

- Dowry Death — Framing of charge under Section 304B, IPC — Charges for offence under Sections 306, 498A r/w Section 34, IPC already framed against accused — Certificate of death filed by doctor stated probable cause of death to be cardio respiratory failure due to acute respiratory failure — In subsequent certificate different cause of death indicated — Trial Court held prosecution not explained as to how certificate sought to be brought on record after 4 years — Matter relating to production of certificate kept in abeyance to be decided after examination of doctor — Proper for Trial Court to defer question of framing charge under Section 304B, IPC after examination of doctor and relevance of subsequent certificate and its acceptability — High Court failed to consider relevant aspects and dismissed application — Impugned judgment set aside — **Indian Penal Code, 1860 — Sections 304B, 306, 498A r/w Section 34.**

II (2006) DMC 651 (SC)

- **Sections 304B, 498A, 323, 504 and 506** — Dowry Prohibition Act, 1961 — Sections 3, 4 — Dowry Death, Cruelty, Hurt, Criminal Intimidation — Petitioner raised convincing ground of his non-presence/non-participation in alleged offence — Petitioner is Junior Commissioned Officer in Indian Army, his younger son was suffering from kidney trouble — Petitioner and his wife donated their kidneys to him and admitted in hospital during 2003-2004 — Affidavit filed in support of same — He was on duty at Gujarat at that time — There was no occasion for them to indulge in alleged offence — Responsible military officer issued certificate in this regard — Proper that truthfulness may be worked out before effecting arrest of petitioner — In interest of justice and equity I.O. shall enquire into contention of petitioner to work out truth relating to petitioner within certified period — Till then arrest of petitioner shall not be effected in regard to offences above mentioned.

II (2006) DMC 773 (Allahabad HC) (DB)

- **Section 306** — Abetment of Suicide — Nothing to show before unfortunate mishap there was any incident which provoked victim to commit suicide — Offence punishable under Section 306, IPC not at all established — Possibility of victim meeting with an incident not ruled out — Conviction unsustainable — Set aside.

II (2006) DMC 775 (Bombay HC)

- **Sections 306 and 498A** — Abetment of Suicide, Cruelty — Death of deceased by consuming poison — Allegations about ill-treatment came after unfortunate incident — No evidence of any discord between parties — Witnesses are parents and siblings of victim, but they speak in different voices — No unanimity amongst them as to what was cause of victim's ill-treatment and how it was meted out — It seems entire story about ill-treatment is after thought — In absence of evidence to show prior to victim's death, she was subjected to any ill-treatment to provoke her to commit suicide, not possible to hold appellant abetted commission of suicide or instigated victim by his ill-treatment to end her life — Notwithstanding testimony of entire family of victim comprising parents, brothers and sisters, conclusion drawn by Trial Judge cannot be upheld.

II (2006) DMC 747 (Bombay HC)

- Criminal Procedure Code, 1973 — Section 482 — **Indian Penal Code, 1860 — Sections 406,**

379 and 498A — Dowry Prohibition Act, 1961 — Sections 3 and 4 — Inherent Powers — Quashing of order of cognizance and proceedings — Criminal breach of trust, theft, cruelty, dowry demand — Complainant and her husband resolved their differences — No useful purpose would be served by continuance of criminal prosecution — It could have detrimental effect on restored harmony — Appropriate case to exercise inherent powers by this Court under Section 482, Criminal Procedure Code to quash order of cognizance and entire proceedings in complaint case.

II (2006) DMC 742 (Patna HC)

- Criminal Procedure Code, 1973 — Sections 482, 320 — **Indian Penal Code, 1860** — **Section 498A** — Quashing of Summoning Order — Compounding of offence — Cruelty — Compromise between parties and they wanted to live peacefully — Though offence under Section 498A is not compoundable still bar created by Section 320, Cr.P.C. would not come in way — Considering facts and special features, chances of ultimate conviction is bleak and no useful purpose likely to be served by allowing criminal prosecution to continue — Summons quashed.

II (2006) DMC 653 (Allahabad HC)

- Criminal Procedure Code, 1973 — Sections 397 and 482 — **Indian Penal Code, 1860** — **Section 498A** — Revisional Powers, Inherent powers — Cruelty — Offence under Section 498A, IPC non-compoundable — Court should examine whether request is *bona fide* and not intended to get out of clutches of law — Courts must see power under Section 482, Cr.P.C. not misused — Court cannot exercise powers under Section 397, Cr.P.C. so as to compound non-compoundable offence under Section 320, Cr.P.C. — In appropriate cases Courts could exercise its inherent powers under Section 482, Cr.P.C. to save institution of marriage.

II (2006) DMC 725 (Kerala HC) (DB)

- Criminal Procedure Code, 1973 — Sections 245(1) and 482 — **Indian Penal Code, 1860** — **Section 498A** — Dowry Prohibition Act, 1961 — Sections 3 and 4 — Powers of Magistrate — Discharge — Issue of process/framing of charge — Inherent Powers — Cruelty, Demand of Dowry — At stage of issuance of process, Magistrate mainly concerned with allegations in complaint petition and evidence led in support of same and *prima facie* satisfied about sufficient ground for proceeding against accused — Magistrate cannot consider defence of accused — He can discharge accused if after taking evidence adduced by prosecution he finds no offence made out against accused — In exercise of inherent powers under Section 482, Cr.P.C. Magistrate cannot consider documents annexed with applications — Allegations in complaint petition disclose above offence and complainant in her statement supported allegations, no infirmity in impugned order issuing process against petitioners — Only because petitioner No. 1 filed matrimonial case before filing of complaint, not sufficient to hold complaint is afterthought or *mala fide* when due to bitter feelings between parties police had to be informed long before filing of complaint petition.

II (2006) DMC 732 (Patna HC)

- Criminal Procedure Code, 1973 — Sections 320 and 482 — **Indian Penal Code, 1860** — **Sections 498A** — Dowry Prohibition Act, 1961 — Sections 3, 4 — Quashing of order granting permission to petitioner to withdraw complaint — Cruelty, dowry demand — Non-compoundable offences — No compromise petition in this connection can be allowed — Section 321, Cr. P.C. specifically provides only P.P. or Addl. P.P. can withdraw case — Prayer for compounding offence rejected by Court below on ground that no compromise petition produced before him — Under Section 482, Cr.P.C. Court can quash criminal proceeding of complaint without limiting provision under Section 320, Cr.P.C. — When decree for dissolution of marriage passed and compromise petition became part of decree — Complaint petition and prosecution pending against O.P. No. 2 quashed.

II (2006) DMC 770 (Patna HC)

- **Section 498A** — Cruelty — Evidence of ill-treatment came from communication which P.Ws. 1 and 2 claimed to have received from victim — Said communication doubtful and for purpose of

proving offence punishable under Section 498A, IPC, inadmissible as dying declaration — Evidence of P.Ws. 1 and 2 discarded as not contributing anything to establish charge of offence under Section 498A, IPC.

II (2006) DMC 775 (Bombay HC)

- **Section 498A** — Cruelty — Primary requisite for applicability of Section 498A, IPC — Person concerned must be husband or relative of husband — He or they must subject woman concerned to cruelty.

II (2006) DMC 780 (Patna HC)

- **Section 498A** — Cruelty — Remarriage — Validity — Matter to be adjudicated during trial *vide Haydon* case — Revisional Court delved on provisions of Mohammedan Law for valid remarriage and arrived at conclusion that because remarriage of petitioner to O.P. No. 2 solemnised before completion of Iddat period and procedure for remarriage in Mohammedan Law not complied with, marriage not legal — Cognizance of offence under Section 498A, IPC cannot be taken — Said issue to be decided on basis of materials and evidence before Trial Court — Order passed by Judicial Magistrate and Revisional Court not sustainable and set aside.

II (2006) DMC 780 (Patna HC)

- **Sections 498A, Explanation (a)** — Cruelty — Only harassment to which deceased was subjected, was that she was subjected to do household work and her husband refused to set up separate house at her request — No other allegations of harassment — All letters produced by prosecution indicate deceased was happy in her matrimonial house and she was in love with her husband — Not even remote indication of harassment or demand of dowry or cruel treatment — Application of Section 498A, Clause (b) not attracted — Death of deceased being accidental, it falls short of Section 498A, Explanation (a).

II (2006) DMC 670 (Karnataka HC) (DB)

- Evidence Act, 1872 — Section 32 — **Indian Penal Code, 1860** — **Sections 498A and 302** — Dying declaration — Murder, Cruelty — Prosecution placed on record convincing and positive evidence to effect that death of deceased was due to accidental burns — In such case, it is not for accused to come up with his evidence to prove very same thing when that task discharged by prosecution itself by placing evidence to that effect.

II (2006) DMC 670 (Karnataka HC) (DB)

- **Sections 498A, 306 r/w Section 34** — Criminal Procedure Code, 1973 — Sections 173(8) and 482 — Transfer of Investigation — Cruelty, abetment of suicide, common intention — Transfer of investigation to C.B.I. — Due to various allegations made by petitioner matter transferred for investigation to C.I.D. branch — Charge-sheet filed — There is reason to doubt efficiency and competency of IO to conduct investigation — No purpose will be served if further investigation made by any CID branch — Proper and competent agency to make further investigation in this heinous offence would be CBI.

II (2006) DMC 737 (Bombay HC) (DB)

- **Sections 498A, 323, 504 r/w Section 34** — Quashing of proceedings — Amicable settlement of dispute — Affidavit of respondent wife stating parties have amicably sorted out all differences and settled dispute and decided to take divorce by mutual consent — No reason and ground to reject prayer made by petitioners and respondent No. 1 in particular — Proceedings pending before Metropolitan Magistrate quashed.

II (2006) DMC 731 (Bombay HC)

- **Sections 498A, 506(1), 342, 323, 324 r/w Section 34** — Criminal Procedure Code, 1973 — Sections 320 and 482 — Cruelty, Criminal Intimidation, Hurt, Common Intention — Compounding of offence — Inherent powers — Husband and wife reunited and living peacefully with their daughter and family members — Appropriate to accept request of petitioners for compounding offences to meet ends of justice.

II (2006) DMC 725 (Kerala HC) (DB)

Indian Succession Act, 1925

- Special Marriage Act, 1954 — Sections 18 and 21 — **Indian Succession Act, 1925 — Sections 213 and 213(2)** — Will made by Muslim married under Special Marriage Act needs to be probated — Muslim married under Special Marriage Act entitled to bequeath his entire property — All rigours of Indian Succession Act applicable — Defendant No. 1 would have to establish his right only after obtaining probate of Will of deceased — Conclusions drawn by Court.

II (2006) DMC 701 (Bombay HC)

Special Marriage Act, 1954

- **Sections 18 and 21** — Indian Succession Act, 1925 — Sections 213 and 213(2) — Will made by Muslim married under Special Marriage Act needs to be probated — Muslim married under Special Marriage Act entitled to bequeath his entire property — All rigours of Indian Succession Act applicable — Defendant No. 1 would have to establish his right only after obtaining probate of Will of deceased — Conclusions drawn by Court.

II (2006) DMC 701 (Bombay HC)

- **Sections 24, 25 and 29** — Annulment of Marriage — Consent of petitioner obtained by fraud — Petition for annulment of marriage premature only by 2 days — Petition ought to have been entertained by Court after granting requisite permission.

II (2006) DMC 685 (Punjab & Haryana HC) (DB)

Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Act, 1970

- Murder of Wife by Strangulation, Cruelty — Circumstantial Evidence — Post-mortem examination conducted on body of deceased disclosed she died due to asphyxia as result of compression of neck and not on account of snake bite — Allegation of demand of Rs. 25,000/- by appellant and his parents from parents of deceased — Ill-treatment of deceased due to non-fulfillment of same — Deceased had told her parents about being ill-treated and occasionally not given food whenever she visited her parental home — Dead body of deceased purposely placed in sitting posture with her back taking support of wall so that no one may suspect that she had actually been killed as result of strangulation and may believe in version of snake bite given by appellant and his parents — Recovery of some articles of deceased made at instance of appellant — Circumstances enumerated unerringly point to guilt of accused and they are inconsistent with his innocence — High Court perfectly right in allowing appeal filed by State and in convicting appellant under Section 302, IPC and sentencing him thereunder — Indian Penal Code, 1860 — Sections 302, 498A — **Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Act, 1970 — Section 2(a).**

II (2006) DMC 757 (SC)
