

DMC..... Subject Index (Topic Wise)

ABETMENT OF SUICIDE — Presumption — Disappearance of Evidence — Deceased died unnatural death — P.W. 2 stated he found deceased hanging by Saree tied to her neck — Prosecution succeeded in bringing home charge for conviction under Section 306, IPC — Deceased continuously harassed, troubled and beaten by accused for various reasons, deceased left with no other option except to commit suicide — Case covered by Section 107(1), IPC — Appellant rightly convicted under Section 306, IPC — Further, cause of death could not be ascertained as accused-appellants screened dead body by cremating same without matter being reported or investigated — Case covered by Section 201, I.P.C. — No interference required in conviction and sentence awarded by Trial Court.

Indian Penal Code, 1860 — Sections 107(1), 306 and 201 — Evidence Act, 1872 — Section 113A.

II (2006) DMC 534 (Rajasthan HC)

AMICABLE SETTLEMENT — Continuance of case — Abuse of process of Court — Quashing of Proceedings — Cruelty, Common Intention, Dowry Demand — Amicable settlement between parties and marriage dissolved — Informant opposite party No. 2 has lost her interest in prosecution of her husband and in-laws in case — In all likelihood case would end in acquittal — Solemn duty of Court is not to permit unnecessary litigation to linger, but to aim at maintaining peace and tranquillity among parties, if offences alleged to have been committed do not affect public policy and law and order — Court feels further continuance of case would be abuse of process of Court — Proceedings quashed with direction to petitioner No. 1 to pay sum of Rs. 1.50 lacs to opposite party No. 2 wife.

Criminal Procedure Code, 1973 — Section 482 — Indian Penal Code, 1860 — Sections 498A and 34 — Dowry Prohibition Act, 1961 — Section 4.

II (2006) DMC 619 (Orissa HC)

ANNULMENT OF MARRIAGE — Ground — Wife suffering from incurable disease — Type of schizophrenia with which wife is suffering from evidence of Doctor is not found to be incurable — It is not that any type of mental illness or any type of schizophrenia covered by expression “incurable disease” in Article 20 — Evidence of P.W. 5 not sufficient to hold wife suffering from incurable disease — Husband failed to prove wife suffering from incurable disease, question of his consent to marriage caused by mistake does not arise — Case for annulment of marriage not made out.

Family Laws (Applicable in Goa) — Articles 18, 19 and 20.

II (2006) DMC 609 (Bombay HC)

ANTICIPATORY BAIL — Grant of — Imposition of condition — Propriety of — High Court granted anticipatory bail to petitioners imposing condition that accused would pay to victim daughter-in-law a sum of Rs. 2,000/- p.m. as maintenance — Applicant before High Court were Jeth and Jethani of victim — This Court fails to understand how they can be made liable to deposit Rs. 2,000/- p.m. for maintenance of victim — While deciding bail application, it is not jurisdiction of Court to decide civil disputes as between parties — Matter remitted to High Court for fresh consideration to pass appropriate order without imposing any condition of nature imposed by impugned order.

Criminal Procedure Code, 1973 — Sections 438, 125.

II (2006) DMC 552 (SC)

ATTEMPT TO MURDER — Cruelty — Statements of prosecution witnesses clearly establish fact that victim lady was being tortured, assaulted and ill-treated by her husband (appellant) because of non-fulfilment of demand of dowry — He poured kerosene oil and set her on fire, due to which she received burn injuries on head and face — Trial Court rightly convicted and sentenced appellant for offence under Sections 498A, 307, IPC — No infirmity in impugned order.

Indian Penal Code, 1860 — Sections 307, 498A.

II (2006) DMC 595 (Jharkhand HC)

BAIL — Cancellation — Cruelty, Criminal Breach of Trust, Common Intention — Anticipatory bail refused to husband by High Court on ground that issue of recovery of stridhan can be investigated through his custodial interrogation — Husband surrendered, though no custodial interrogation carried out — Bail granted to husband by M.M. — Application for cancellation of bail — No ground made to do so — Question of cancellation of bail stands entirely on different footing from application for release on bail — Considerations entirely different — Unless situations, *i.e.*, tampering with evidence, threatening witnesses, misusing of liberty granted or perversity in order, etc., made out, bail orders not to be interfered with — None of these situations arisen in present case — No question of cancellation of bail granted to accused — Petitioner may be aggrieved by fact that police authorities and particularly Investigating Officer may not have carried out custodial interrogation — That is not fault of accused — Learned Counsel for State points out order of High Court as well as relevant proceedings forwarded to DCP by Metropolitan Magistrate for information — DCP to take appropriate action in accordance with law — No grounds made out for cancellation of bail.

Criminal Procedure Code, 1973 — Section 439(2) — Indian Penal Code, 1860 — Sections 498A, 406, 34.

II (2006) DMC 515 (Delhi HC)

— Detailed examination of evidence and elaborate documentation of merits of case to be avoided by Court while passing orders on bail applications, yet Court dealing with bail application should be satisfied as to whether there is *prima facie* case, but exhaustive exploration of merits of case not necessary — Factors to be considered before granting bail.

II (2006) DMC 500 (SC)

— Grant of — Justifiability — Dowry death, Cruelty, Common intention — Death of deceased within five months of her marriage with respondent No. 2 — Appeal against order of bail granted by High Court to accused and co-accused — Submission by learned Counsel for appellant that no reason indicated by High Court for granting bail except stating that “in peculiar facts and circumstances of case” bail granted because accused is in custody for ten months and also co-accused — High Court did not refer to various orders passed earlier by Additional Sessions Judge and by High Court on earlier occasions — Even factually High Court not correct in stating that accused was in custody for ten months — cursory perusal of High Court’s order shows complete non-application of mind — Order in case of co-accused is more queer — Bail granted to him as he was brother-in-law and in custody for quite some time — No mention about State’s stand in impugned order — Observation of Additional Sessions Judge that non-genuine documents pressed into service in case of co-accused, not noted by High Court — This Court directs reconsideration of applications for bail by High Court in accordance with law keeping in view principles.

Indian Penal Code, 1860 — Sections 498A, 304B r/w Section 34 — Dowry Prohibition Act, 1961 — Section 4 — Criminal Procedure Code, 1973 — Section 438.

II (2006) DMC 500 (SC)

— Orders of bail are not necessarily orders of any precedent value.

II (2006) DMC 500 (SC)

COMMON INTENTION — Cruelty — All accused persons living separately and having separate business — No evidence to hold appellant No. 2 to 5 guilty for offence under Sections 498A, 34, IPC.

II (2006) DMC 489 (Jharkhand HC)

— Dowry Death, Cruelty — Death by strangulation — Deceased with her husband staying in house of adoptive father except for last 15-20 days — Charges against natural parents not proved.

II (2006) DMC 510 (Punjab & Haryana HC) (DB)

— Murder of wife by setting her ablaze — Guilt of accused proved beyond reasonable doubt —

However, co-accused *i.e.* Mother-in-law and sister-in-law roped in due to animus(See *Murder*)

II (2006) DMC 544 (Delhi HC) (DB)

COMPOUNDING OF OFFENCE — Quashing of FIR — Cruelty, Hurt, Criminal Intimidation and Dowry Demand — Matter settled by both spouses and relatives — Matrimonial offences are slur on our society and Legislature in its wisdom thought it proper to curb menace of such type of matrimonial disputes with conviction — But this does not mean, interest of justice, which is supreme of all laws and for which Courts exist to be sacrificed at altar of technicalities — It is in interest of both litigating parties to quash proceedings pending against applicants.

Criminal Procedure Code, 1973 — Sections 482, 320 — Indian Penal Code, 1860 — Sections 498A, 323 and 504 — Dowry Prohibition Act, 1961 — Sections 3 and 4.

II (2006) DMC 600 (Allahabad HC)

CRIMINAL BREACH OF TRUST — Cruelty — Quashing of FIR — Compromise between parties — FIR quashed.

II (2006) DMC 486 (Punjab & Haryana HC)

CRIMINAL TRIAL — Post-mortem report — In absence of examination of maker of post-mortem report opinion given in said report regarding cause of death cannot be made basis for conviction.

II (2006) DMC 489 (Jharkhand HC)

CRUELTY — Amicable settlement — Quashing of Proceedings(See *Amicable settlement*)

II (2006) DMC 619 (Orissa HC)

— Attempt to Murder — Statements of prosecution witnesses clearly establish fact that victim lady was being tortured, assaulted and ill-treated by her husband (appellant) because of non-fulfilment of demand of dowry — He poured kerosene oil and set her on fire, due to which she received burn injuries on head and face — Trial Court rightly convicted and sentenced appellant for offence under Sections 498A, 307, IPC — No infirmity in impugned order.

II (2006) DMC 595 (Jharkhand HC)

— Common Intention — Prosecution witnesses did not state anything regarding commission of any torture or harassment to deceased by appellant Nos. 2 to 5 for demand of dowry — Ingredients of Section 498A, IPC not supplied — Further accused persons living separately and having separate business — No evidence to hold appellant No. 2 to 5 guilty for offence under Sections 498A, 34, IPC.

Indian Penal Code, 1860 — Sections 498A, 34.

II (2006) DMC 489 (Jharkhand HC)

— Criminal Breach of Trust — Quashing of FIR — Compromise between parties(See *Quashing of FIR*)

II (2006) DMC 486 (Punjab & Haryana HC)

— Dowry Death — Death of deceased within 7 years of marriage by subjecting her to cruelty and harassment for money(See *Dowry Death*)

II (2006) DMC 518 (SC)

— Dowry Death — Presumption — Death of deceased by burn injuries on account of alleged demand of dowry — Deceased maltreated by accused(See *Dowry Death*)

II (2006) DMC 568 (Rajasthan HC)

— Effect of Amendment — Prior to amendment, cruelty was one of grounds for judicial separation — By Amendment Act, 1976 'cruelty' has been made one of grounds for divorce.

Hindu Marriage Act, 1955 — Section 13(1)(ia) (Hindu Marriage Laws (Amendment) Act, 1976).

II (2006) DMC 553 (Andhra Pradesh HC) (DB)

- Hurt, Criminal Intimidation, Dowry Demand — Compounding of Offence — Quashing of FIR — Compromise between parties(See *Quashing of FIR*)

II (2006) DMC 600 (Allahabad HC)

- Meaning of expression — Scope — Though FIR stated accused ill-treated his wife, no evidence to said effect is forthcoming — Neither any evidence laid to show any demand on part of accused for payment of any dowry — Entire evidence against accused petitioner is when his wife was lying in hospital suffering from TB, accused petitioner did not care to visit her and later on she expired — Such conduct of husband, in totality of facts would fall short of requirements to bring home offence under Section 498A, IPC.
Indian Penal Code, 1860 — Section 498A and its explanation .

II (2006) DMC 621 (Gauhati HC)

- Mere acquittal in criminal case filed by respondent wife against appellant and her in-laws cannot be treated as incident in favour of appellant-husband entitling him to seek divorce on ground of cruelty — Cruelty has to cause reasonable apprehension in petitioner's mind that it will be harmful or injurious for petitioner to live with other spouse — Conduct of husband in disputing paternity of child, goes against him and he cannot take advantage of his own conduct as ground for divorce — It is stated by wife that harassment meted out in hands of appellant-husband and his parents became intolerable which drove her to attempt to commit suicide by pouring kerosene on self — No merit in contention of learned Counsel for appellant that it is not safe to continue marital relationship with respondent wife who is having tendency to commit suicide — Appellant failed to make out case of cruelty as ground of divorce — Trial Court considered material brought on record in right perspective and refused to dissolve marriage — No valid ground to interfere with order of Trial Court.

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

II (2006) DMC 553 (Andhra Pradesh HC) (DB)

- Quashing of Proceedings — Complainant wife married to petitioner No. 1 about 11 years back and 2 daughters and two sons born out of this wedlock — Petitioner No. 1 married second time and then third marriage — When complainant protested, she was harassed, tortured and subjected to cruelty at hands of petitioners — He used to demand of Rs. 50,000 and on non-fulfilment she was driven out from house — Complaint made by complainant clearly involves all 3 petitioners before this Court — It cannot be said that there is no offence on reading of complaint and supporting papers.

II (2006) DMC 632 (Patna HC)

- What amounts to — Non-visiting of husband to wife during her illness in hospital does not amount to cruelty.

II (2006) DMC 621 (Gauhati HC)

DIVORCE — Merely because there are allegations and counter-allegations decree for divorce cannot follow, nor mere delay in disposal of divorce proceedings itself is ground — There must be real and extraordinary features warranting grant of divorce on basis of pleadings.

Hindu Marriage Act, 1955 — Section 13.

II (2006) DMC 553 (Andhra Pradesh HC) (DB)

DOWRY DEATH — All ingredients of Section 304B, IPC satisfied — Unnatural death of deceased within 2½ years of marriage with appellant — Deceased died with extensive burn injuries — Brother-in-law, father-in-law and mother-in-law alleged that appellant used to demand money for television, etc. as dowry — Presumption goes in favour of prosecution — Allegations sufficiently proved by prosecution — No overt act alleged against appellant to cause burn injuries to deceased — Minimum sentence prescribed under law of 7 years may serve purpose.

Indian Penal Code, 1860 — Section 304B.

II (2006) DMC 634 (Jharkhand HC)

- Common Intention — Cruelty — Death by strangulation — Accused-appellant P.K. adopted in his childhood — His financial condition not stable — Deceased always complaining about harassment to her mother and brother on account of taunting on her for not bringing sufficient dowry — Except for last 15, 20 days, couple was staying only in house of adoptive father of accused-appellant P.K. — Appeal dismissed in respect of accused appellant P.K., other accused appellants acquitted of charges under Section 304B r/w Section 34 and Section 498A r/w Section 34, IPC — Impugned judgment affirmed in part.

Indian Penal Code, 1860 — Sections 304B r/w Sections 34, 498A.

II (2006) DMC 510 (Punjab & Haryana HC) (DB)

- Cruelty — Presumption — Deceased burnt by pouring kerosene on her — Injuries sufficient to cause death in ordinary course of nature — Presence of accused at time of incident not disputed as he also sustained some injuries, but he did not try to save deceased — Deceased died within short period of 3 months of marriage — It is proved she was maltreated by accused and was burnt — Further that soon before her death demands of dowry were made as stated by witnesses — Presumption liable to be raised that accused was responsible for death as deceased died not in normal circumstances but because of burn injuries — All ingredients of Section 304B, IPC Satisfied — Trial Court correctly appreciated evidence in relation to Sections 304B and 498A — Conviction and sentence passed against accused being based on cogent reasons upheld.

Indian Penal Code, 1860 — Sections 498A and 304-B — Evidence Act, 1872 — Section 113B.

II (2006) DMC 568 (Rajasthan HC)

- Cruelty, Common Intention — Bail — Grant of — Justifiability — Death of deceased within five months of her marriage with respondent No. 2 — Appeal against order of bail granted by High Court to accused and co-accused — Submission by learned Counsel for appellant that no reason indicated by High Court for granting bail except stating that “in peculiar facts and circumstances of case” bail granted because accused is in custody for ten months and also co-accused — High Court did not refer to various orders passed earlier by Additional Sessions Judge and by High Court on earlier occasions — Even factually High Court not correct in stating that accused was in custody for ten months — Cursory perusal of High Court’s order shows complete non-application of mind — Order in case of co-accused is more queer — Bail granted to him as he was brother-in-law and in custody for quite some time — No mention about State’s stand in impugned order — Observation of Additional Sessions Judge that non-genuine documents pressed into service in case of co-accused, not noted by High Court — This Court directs reconsideration of applications for bail by High Court in accordance with law keeping in view principles.

Indian Penal Code, 1860 — Sections 498A, 304B r/w Section 34 — Dowry Prohibition Act, 1961 — Section 4 — Criminal Procedure Code, 1973 — Section 438.

II (2006) DMC 500 (SC)

- Disappearance of evidence — Demand of dowry, *sine qua non* for applying Section 304B, IPC not established so far appellants 1 and 3 are concerned — Evidence is specific against appellant 2 — Conviction of appellant Nos. 1 and 3 cannot be maintained — Custodial sentence of 7 years would meet ends of justice so far as Section 304B, IPC is concerned — Sentence of 3 years imposed in respect of Section 201, IPC warrants no interference.

Indian Penal Code, 1860 — Sections 304B, 201.

II (2006) DMC 582 (SC)

- Murder, Cruelty — Death of deceased within 7 years of marriage by subjecting her to cruelty and harassment for money — Evidence of doctor that deceased died on account of asphyxia due to throttling and it was not case of suicidal death but homicidal death — On consideration of evidence of witnesses, Court is convinced that involvement of A1 clearly established — Evidence clearly stated about harassment and cruelty by appellant — Ample evidence which shows appellant harassed and ill-treated deceased for dowry and circumstances point out he caused death of deceased — Appellant is guilty for offence under Section 302, IPC — Conviction and sentence recorded by Sessions Judge against appellant for other offences also

confirmed — Substantive sentence to run concurrently — Order passed by High Court affirmed.
Indian Penal Code, 1860 — Sections 302, 498A, 304B — Dowry Prohibition Act — Sections 3, 4.

II (2006) DMC 518 (SC)

— Presumption under Section 113A, Evidence Act attracted only when case of prosecution would be that deceased committed suicide within 7 years of marriage due to commission of cruelty by husband or in-laws due to non-fulfilment of dowry demand — No case of prosecution that deceased committed suicide — Presumption under Section 113A, Evidence Act not applicable — Prosecution not able to prove charges under Sections 498A, 34 and 304B, IPC.
Indian Penal Code, 1860 — Section 304B — Evidence Act, 1872 — Section 113A.

II (2006) DMC 489 (Jharkhand HC)

— Presumption under Section 113B, Evidence Act, would not be drawn against accused if it is shown after alleged demand, cruelty or harassment dispute stood resolved and there was no evidence of cruelty or harassment thereafter.

II (2006) DMC 582 (SC)

— Reduction in Sentence — Death of deceased due to consumption of aluminium phosphide within 7 years of marriage — It was connected with demand of scooter and was dowry death — Parents of husband would not have benefited from that scooter when they were living separately— Prosecution case not proved against father-in-law and mother-in-law — They are acquitted of charge — Prosecution case duly proved for offence under Section 304B, IPC against appellant accused — Taking into account facts and circumstances of case, substantive sentence of imprisonment of appellant reduced from 10 years to 7 years and sentence of fine maintained.
Indian Penal Code, 1860 — Section 304B.

II (2006) DMC 532 (Punjab & Haryana HC)

DOWRY DEMAND — Amicable settlement — Quashing of Proceedings(*See Amicable settlement*)

II (2006) DMC 619 (Orissa HC)

— Cruelty, Hurt, Criminal Intimidation, — FIR quashed on account of compromise between parties.

II (2006) DMC 600 (Allahabad HC)

EVIDENCE — Disappearance of evidence — Abetment of Suicide — Death of deceased by hanging — Cause of death could not be ascertained as accused-appellants screened dead body by cremating same without matter being reported or investigated — Case covered by Section 201, I.P.C. — No interference required in conviction and sentence awarded by Trial Court.
Indian Penal Code, 1860 — Sections 107(1), 306 and 201 — Evidence Act, 1872 — Section 113A.

II (2006) DMC 534 (Rajasthan HC)

— Dowry Death — Presumption — Death of deceased within 2½ years of marriage(*See Dowry Death*)

II (2006) DMC 634 (Jharkhand HC)

— Dying declaration — Reliability — Murder — Deceased in fit state of mind(*See Murder*)

II (2006) DMC 494 (Delhi HC) (DB)

— Presumption — Dowry Death — Presumption under Section 113A, Evidence Act attracted only when case of prosecution would be that deceased committed suicide within 7 years of marriage due to commission of cruelty by husband or in-laws due to non-fulfilment of dowry demand

II (2006) DMC 489 (Jharkhand HC)

— Presumption — Dowry death — Presumption under Section 113B, Evidence Act, would not be drawn against accused if it is shown after alleged demand, cruelty or harassment dispute stood resolved and there was no evidence of cruelty or harassment thereafter.
Evidence Act, 1872 — Section 113B.

II (2006) DMC 582 (SC)

— Presumption as to Dowry Death(See *Dowry Death*)

II (2006) DMC 568 (Rajasthan HC)

— Proof of marriage for grant of maintenance(See *Maintenance*)

II (2006) DMC 599 (SC)

— Relevancy or admissibility of evidence in Civil suit not strictly followed in proceeding of Family Court.

II (2006) DMC 523 (Gauhati HC)

— Standard of proof — Maintenance *vis-a-vis* bigamy — Standard of proof of marriage or inability to maintain themselves, *i.e.*, person concerned not required as strictly as in civil proceeding for declaration of titles or trial for offence under Section 494, IPC.

II (2006) DMC 523 (Gauhati HC)

— Three dying declarations — Reliability — Murder of wife by setting her ablaze — Deceased in fit state of mind — All three dying declarations cannot be said to be result of tutoring(See *Murder*)

II (2006) DMC 544 (Delhi HC) (DB)

EXPRESSIONS — “Normal circumstances”, “otherwise than under normal circumstances” and “soon before” — Meaning.

Indian Penal Code, 1860 — Section 304B — Evidence Act, 1872 — Section 114 Illustration (a).

II (2006) DMC 582 (SC)

FAMILY COURT — Decree for dissolution of marriage passed by Family Court needs no confirmation — Judgment of Family Court is subject to appellate jurisdiction of High Court under Section 19 of Act and is not subject to confirmation as produced in Section 17 of Indian Divorce Act as it stood prior to amendment in 2001.

II (2006) DMC 591 (Bombay HC) (DB)

— Relevancy or admissibility of evidence in Civil suit not strictly followed in proceeding of Family Court — Family Court lost right of Section 14 of Family Courts Act and Order 17 of C.P.C. — Evidence available on record sufficient to show contesting respondent No. 2 has means to maintain petitioners and petitioners not able to maintain themselves being old and infirm — Impugned order rejecting maintenance set aside.

Family Courts Act, 1984 — Section 14 — Civil Procedure Code, 1908 — Order 17 — Evidence Act, 1872.

II (2006) DMC 523 (Gauhati HC)

FAMILY COURT OVERRIDING EFFECT OVER INDIAN DIVORCE ACT — Decree for dissolution of marriage passed by Family Court needs no confirmation — Judgment of Family Court is subject to appellate jurisdiction of High Court under Section 19 of Act and is not subject to confirmation as produced in Section 17 of Indian Divorce Act as it stood prior to amendment in 2001 — Procedure of decree *nisi* and confirmation by High Court as provided in Indian Divorce Act has given way to procedure provided in Family Courts Act — Reference made by Family Court for confirmation under Section 17 of Divorce Act uncalled for and no further order needs to be passed by this Court in civil reference.

Indian Divorce Act, 1869 — Sections 2, 10, 11 and 17 — Family Courts Act, 1984 — Sections 3, 4, 7(1)(a), 8, 19 and 20.

II (2006) DMC 591 (Bombay HC) (DB)

INHERENT POWERS — Exercise of — Discussed.

Criminal Procedure Code, 1973 — Section 482.

II (2006) DMC 586 (Uttaranchal HC)

- Scope and object — Discussed.
Criminal Procedure Code, 1973 — Section 482

II (2006) DMC 632 (Patna HC)

MAINTENANCE — Award of — Grant of anticipatory bail to Jeth and Jethani on imposition of condition for payment of Rs. 2,000 p.m. for maintenance to victim — While deciding bail application, it is not jurisdiction of Court to decide civil disputes between parties — Matter remitted to High Court for fresh consideration.

II (2006) DMC 552 (SC)

- Delay condoned as it was duly explained — Wife stated in her testimony that her parents and brothers were maintaining her but after death of her mother, her brothers not ready to keep her with them — Applicant legally wedded wife of non-applicant, who is possessed of sufficient means — He is obliged to maintain applicant — Order of Revisional Court not legal and proper in disturbing finding of Trial Court based on proper appreciation of evidence and logical and not against law — Order of Revisional Court unsustainable — Set aside.
Criminal Procedure Code, 1973 — Section 125.

II (2006) DMC 606 (Madhya Pradesh HC)

- Enhancement — Effective date — Discretion of Magistrate — Nothing to suggest that discretion exercised arbitrarily — Order does not call for any inference.
Criminal Procedure Code, 1973 — Section 127.

II (2006) DMC 629 (Calcutta HC)

- Enhancement of — Application thereby alleged change in circumstances — Provision of Section 127, Criminal Procedure Code — Rise in cost of living, increase in earning of husband, etc. fall under purview of change in circumstances — Application allowed.
Criminal Procedure Code, 1973 — Section 127.

II (2006) DMC 629 (Calcutta HC)

- Fundamental principle regarding grant of maintenance — Discussed.

II (2006) DMC 613 (Kerala HC)

- Grant of — Challenge against — Allegation that husband neglected and refused to maintain wife — Husband alleged wife living in adultery and not willing to come back — SDJM completely gone beyond his jurisdiction in holding since claimant-wife was legally married to her husband, he had every right and title over her and she has to go with her husband if he is ready to keep her with him — Allegation of adultery not proved against wife by cogent evidence — Revisional Court was within his jurisdiction to appreciate evidence to find out whether husband neglected his wife and refused to maintain her and wife entitled to claim maintenance against husband — Revisional Court rightly allowed maintenance in favour of wife holding allegation of adultery not proved by any cogent evidence and that SDJM committed error in dismissing petition filed by wife — No error in judgment/order of revisional Court.
Criminal Procedure Code, 1973 — Section 125.

II (2006) DMC 603 (Jharkhand HC)

- Grant of — Non-compliance of order by plaintiff — Subsistence of divorce proceeding instituted by husband, stayed for non-compliance by husband to pay interim maintenance and costs of litigation — Respondent husband, Class IV employee under Government but he refused to pay anything towards maintenance to appellant wife in spite of order in divorce proceeding — DDO of respondent husband directed to deduct every month from his salary of Rs. 250 being monthly maintenance and Rs. 500 being instalment of arrear of maintenance and remit same to appellant wife.
- Hindu Marriage Act, 1955 — Sections 10, 24.

II (2006) DMC 637 (Gauhati HC) (DB)

- Grant of — Proof of marriage — Magistrate categorically recorded finding that S failed to establish her marriage with petitioner as well as failed to establish alleged second marriage — As marriage not established between petitioner and S — Question of grant of maintenance under Section 125, Cr.P.C. does not arise.

Criminal Procedure Code, 1973 — Section 125 — Indian Penal Code, 1860 — Section 494.

II (2006) DMC 599 (SC)

- Grant of @ Rs. 2,000 p.a. mensem — Challenge against — Inability of wife to maintain herself to entitle her to claim maintenance — Fundamental principle regarding grant of maintenance — Qualification by itself cannot be held to be synonymous with ability to maintain themselves — Mere fact that wife has qualification not sufficient *ipso facto* to conclude she is in position to maintain herself — Nothing tangible to show she was actually engaging herself in any teaching activities or professional activity as Lawyer at time when claim made or before spouses started living separately — Mere fact that after separation on some occasions she worked as teacher in some schools not sufficient to take her out of category of persons unable to maintain themselves — No adamant refusal on part of claimant/ wife to engage herself in any income earning activity to maintain herself — It was clearly case of her inability to secure any such income earning activities and income to maintain herself — Impugned order warrants no interference — Quantum of maintenance fixed by Court below reasonable and modest considering proved means of petitioner and needs of claimant.

Criminal Procedure Code, 1973 — Section 125.

II (2006) DMC 613 (Kerala HC)

- Major son — Entitlement — Section 3 of Indian Majority Act, 1875 speaks of attainment of majority — Being major son is not entitled to any maintenance — Maintenance allowed deserves to be set aside.

Criminal Procedure Code, 1973 — Section 125.

II (2006) DMC 629 (Calcutta HC)

- Second Revision Petition — Maintainability — Application for maintenance shall be filed within reasonable time, though no limitation prescribed for filing same — If there is any satisfactory reason, application cannot be thrown out merely on ground of delay — Delay in filing application satisfactorily explained — Applicant is legally wedded wife of non-applicant and he is obliged to maintain applicant — Revisional Court erred in disturbing finding of Trial Court which was based on proper appreciation of evidence and logical and not against law — Order of Revisional Court rejecting application of applicant cannot be sustained.

Criminal Procedure Code, 1973 — Sections 125 and 397(3).

II (2006) DMC 565 (Madhya Pradesh HC)

- Summary proceedings — Object — Conditions to be satisfied — Standard of proof of marriage or inability to maintain themselves, *i.e.*, person concerned not required as strictly as in civil proceeding for declaration of titles or trial for offence under Section 494, IPC.

Criminal Procedure Code, 1973 — Section 125.

II (2006) DMC 523 (Gauhati HC)

MAINTENANCE VIS-A-VIS BIGAMY — Standard of proof of(See Evidence)

II (2006) DMC 523 (Gauhati HC)

- MURDER** — Common intention — Three dying declarations — Reliability — Murder of wife by setting her on fire — Deceased married 2 years back, having one year old son, she was misbehaved and quarrels were there since after her marriage with husband and family members — Dying declarations reliable — Trial Court erred in rejecting statements of deceased made to Doctor, Investigating Officer as also SDM, soon prior to her death — Trial Court's reasoning that statements were result of tutoring, will be stretching matter too far — No witness says any of relatives of deceased was present at time of recording of statement — In absence of positive evidence, not correct to load judicial mind with suspicion — Mother-in-law and sister-in-law had

no hand in pouring of kerosene oil or setting ablaze deceased — They seem to have been roped in due to animus — Sufficient evidence on record to show respondent No. 1, husband of deceased was instrumental in bringing about death of deceased by pouring kerosene oil on her and setting her ablaze — Factum of death by burn injuries established by medical evidence — Accused and deceased present in house at time deceased received burn injuries — Trial Court wrongly acquitted accused by giving him benefit of doubt — Prosecution proved guilt of accused beyond reasonable doubt — Accused held guilty for offence under Section 302, IPC and sentenced accordingly — He shall be entitled to benefits of Section 428, Cr.P.C. — Appeal *qua* co-accused dismissed.

Indian Penal Code, 1860 — Sections 302, 34.

II (2006) DMC 544 (Delhi HC) (DB)

— Dying declaration — Reliability — Murder of wife by setting her ablaze by husband — Deceased sustained 72-80% burns — Dying declaration, Reliable — Testimony of PWs 1 and 2 doctors reliable — Nothing in cross-examination of Investigating Officer to cause any suspicion regarding recording of statement of deceased in presence of doctor — Patient was fit to make statement — Non detection of kerosene residues cannot be said to be fatal inasmuch as it is no one's case that deceased was totally doused before she was set ablaze — Prosecution brought home guilt of accused that accused set ablaze his wife-deceased, as result whereof she succumbed to her injuries sufficient in normal course to cause death — Judgment of Trial Court is well reasoned and needs no interference — Judgment of conviction and order of sentence upheld.

Indian Penal Code, 1860 — Section 302.

II (2006) DMC 494 (Delhi HC) (DB)

MURDER OF WIFE BY SETTING HER ABLAZE(See Murder)

II (2006) DMC 494 (Delhi HC) (DB)

PERMANENT ALIMONY — “Change in circumstances” — Modification of order — Subsequent changes highlighted by husband are remarriage contracted by wife and her gainful employment — Change in circumstances subsequent to order passed by Court below created by husband himself by committing default of original order passed in O.P. — Same cannot be taken to advantage of defaulter himself — Change of circumstances created to disadvantage of wife and to advantage of husband himself — Same cannot be any ground to interfere with original order in any manner by this Court.

Hindu Marriage Act, 1955 — Sections 25(1), 25(2).

II (2006) DMC 507 (Andhra Pradesh HC) (DB)

PRACTICE AND PROCEDURE — Maintenance — Well settled so far as application under Section 125, Cr.P.C. concerned, parents are at par with wife and children.

II (2006) DMC 523 (Gauhati HC)

PRECEDENT — Quashing of proceedings — Allegations as to *mala fides* — When information lodged at police station and offence is registered, then *mala fides* of informant would be of secondary importance — It is material collected during investigation and evidence led in Court, which decides fate of accused person — Allegations of *mala fides* against informant are of no consequences and cannot themselves be basis for quashing proceedings.

II (2006) DMC 586 (Uttaranchal HC)

QUASHING OF CHARGE-SHEET AND SUMMONING ORDER — Cruelty, Cheating, Criminal Intimidation, Criminal Conspiracy, Hurt — Charge-sheet discloses offence and shows that case against petitioner is *prima facie* made out — Contention, summoning order is non-speaking and liable to be set aside, rejected — Summoning order does not require meticulous consideration of evidence — This Court refrain from giving premature decision where facts are extremely incomplete and hazy, more so evidence not produced before Court and issues involved whether factual or legal are of great magnitude and cannot be seen in their true perspective

without sufficient material — No special feature to say it is not expedient and not in interest of justice to permit prosecution to continue — Petition under Section 482, Cr.P.C. dismissed.

Criminal Procedure Code, 1973 — Section 482 — Indian Penal Code, 1860 — Sections 498A, 420, 506, 120B, 323.

II (2006) DMC 586 (Uttaranchal HC)

QUASHING OF FIR — Criminal Breach of Trust, Cruelty — Compromise between parties — No likelihood of accused being convicted of offences mentioned in FIR when case would be put on trial — Wife not likely to support imputation made against her husband/in-laws — Section 320, I.P.C. does not limit or affect powers of High Court under Section 482, Cr.P.C., in such cases — Considering facts and circumstances this Court of view that it would be futile exercise and abuse of process of law to continue with proceedings — FIR quashed.

Criminal Procedure Code, 1973 — Sections 482, 320 — Indian Penal Code, 1860 — Sections 406, 498A.

II (2006) DMC 486 (Punjab & Haryana HC)

— Cruelty, Hurt, Criminal Intimidation, Dowry Demand(*See Compounding of Offence*)

II (2006) DMC 600 (Allahabad HC)

QUASHING OF PROCEEDINGS — Amicable settlement — Cruelty, Common Intention, Dowry Demand — Amicable settlement between parties and marriage dissolved — Informant opposite party No. 2 has lost her interest in prosecution of her husband and in-laws in case — In all likelihood case would end in acquittal — Solemn duty of Court is not to permit unnecessary litigation to linger, but to aim at maintaining peace and tranquillity among parties, if offences alleged to have been committed do not affect public policy and law and order — Court feels further continuance of case would be abuse of process of Court — Proceedings quashed with direction to petitioner No. 1 to pay sum of Rs. 1.50 lacs to opposite party No. 2 wife.

Criminal Procedure Code, 1973 — Section 482 — Indian Penal Code, 1860 — Sections 498A and 34 — Dowry Prohibition Act, 1961 — Section 4.

II (2006) DMC 619 (Orissa HC)

— Cruelty — Complainant wife married to petitioner No. 1 about 11 years back and 2 daughters and two sons born out of this wedlock — Petitioner No. 1 married second time and then third marriage — When complainant protested, she was harassed, tortured and subjected to cruelty at hands of petitioners — He used to demand of Rs. 50,000 and on non-fulfilment she was driven out from house — Complaint made by complainant clearly involves all 3 petitioners before this Court — It cannot be said that there is no offence on reading of complaint and supporting papers.

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

II (2006) DMC 632 (Patna HC)

REGISTRATION OF MARRIAGE — Imposition of condition — Legality — No provision under Act for publication of factum of marriage in newspaper for purpose of registration.

Special Marriage Act, 1954

II (2006) DMC 608 (Punjab & Haryana HC) (DB)

REVISION PETITION — Maintainability — Maintenance granted by Trial Court after proper appreciation of evidence(*See Maintenance*)

II (2006) DMC 565 (Madhya Pradesh HC)

REVISIONAL JURISDICTION — Exercise of power — Limitation — Manifest error of law and failure of justice apparent on face of record.

Criminal Procedure Code, 1973 — Sections 397, 401.

II (2006) DMC 523 (Gauhati HC)

SENTENCE — Reduction of — Death of deceased due to consumption of aluminium phosphide

within 7 years of marriage(See Dowry Death)

II (2006) DMC 532 (Punjab & Haryana HC)

STRIDHAN — Recovery of — Cancellation of Bail(See Bail)

II (2006) DMC 515 (Delhi HC)

TERRITORIAL JURISDICTION — Cruelty, Grievous Hurt, Attempt to Murder, Criminal Intimidation, Common Intention, Demand of Dowry — According to FIR story, no demand of dowry made at Bargarh nor is there any whisper with regard to any act by petitioners constituting commission of offence at Bargarh — No part of cause of action arose at Bargarh — Section 178(c), Cr.P.C. not attracted — SDJM, Bargarh had no jurisdiction to deal with case — Proceedings quashed.

Criminal Procedure Code, 1973 — Sections 177, 178(c) — Indian Penal Code, 1860 — Sections 498A, 325, 307, 506 and 34 r/w Section 4, Dowry Prohibition Act.

II (2006) DMC 624 (Orissa HC)

TRANSFER PETITION — Transfer of Matrimonial case — It will be inconvenient for petitioner-wife to contest matrimonial case at Indore as petitioner is in job at Panna and having baby of 2 years — Nothing on record to show life of respondent is in danger if he attends case at Panna — Case pending in Family Court at Indore ordered to be transferred to Family Court, Panna.

Civil Procedure Code, 1908 — Section 24.

II (2006) DMC 589 (Madhya Pradesh HC)

— Transfer of matrimonial dispute — Petition filed by wife seeking transfer of petition from Court of ADJ, Korba to Family Court, Kolkata — Grounds — Petitioner has no means and no source of income, she has minor daughter of 5 years — Petition for transfer resisted by respondent-husband — He assured to co-operate with proceedings, without dragging proceedings — Prayer for transfer of petition not granted with directions to respondent.

II (2006) DMC 594 (SC)

DMC..... Subject Index (Section Wise)

Civil Procedure Code, 1908

— Family Courts Act, 1984 — Section 14 — **Civil Procedure Code, 1908 — Order 17** — Evidence Act, 1872 — Relevancy or admissibility of evidence in Civil suit not strictly followed in proceeding of Family Court — Family Court lost right of Section 14 of Family Courts Act and Order 17 of C.P.C. — Evidence available on record sufficient to show contesting respondent No. 2 has means to maintain petitioners and petitioners not able to maintain themselves being old and infirm — Impugned order rejecting maintenance set aside.

II (2006) DMC 523 (Gauhati HC)

— **Section 24** — Transfer of Matrimonial case — It will be inconvenient for petitioner-wife to contest matrimonial case at Indore as petitioner is in job at Panna and having baby of 2 years — Nothing on record to show life of respondent is in danger if he attends case at Panna — Case pending in Family Court at Indore ordered to be transferred to Family Court, Panna.

II (2006) DMC 589 (Madhya Pradesh HC)

Criminal Procedure Code, 1973

— **Section 125** — Maintenance — Summary proceedings — Object — Conditions to be satisfied — Standard of proof of marriage or inability to maintain themselves, *i.e.*, person concerned not required as strictly as in civil proceeding for declaration of titles or trial for offence under Section 494, IPC.

II (2006) DMC 523 (Gauhati HC)

— Maintenance — Grant of — Proof of marriage — Magistrate categorically recorded finding that S failed to establish her marriage with petitioner as well as failed to establish alleged second

marriage — As marriage not established between petitioner and S — Question of grant of maintenance under Section 125, Cr.P.C. does not arise — **Criminal Procedure Code, 1973 — Section 125** — Indian Penal Code, 1860 — Section 494.

II (2006) DMC 599 (SC)

- **Section 125** — Maintenance — Grant of — Challenge against — Allegation that husband neglected and refused to maintain wife — Husband alleged wife living in adultery and not willing to come back — SDJM completely gone beyond his jurisdiction in holding since claimant-wife was legally married to her husband, he had every right and title over her and she has to go with her husband if he is ready to keep her with him — Allegation of adultery not proved against wife by cogent evidence — Revisional Court was within his jurisdiction to appreciate evidence to find out whether husband neglected his wife and refused to maintain her and wife entitled to claim maintenance against husband — Revisional Court rightly allowed maintenance in favour of wife holding allegation of adultery not proved by any cogent evidence and that SDJM committed error in dismissing petition filed by wife — No error in judgment/order of revisional Court.

II (2006) DMC 603 (Jharkhand HC)

- **Section 125** — Maintenance — Delay in filing application by applicant, wife duly explained — She stated in her testimony that her parents and brothers were maintaining her but after death of her mother, her brothers not ready to keep her with them — Applicant legally wedded wife of non-applicant, who is possessed of sufficient means — He is obliged to maintain applicant — Order of Revisional Court not legal and proper in disturbing finding of Trial Court based on proper appreciation of evidence and logical and not against law — Order of Revisional Court unsustainable — Set aside.

II (2006) DMC 606 (Madhya Pradesh HC)

- **Section 125** — Maintenance — Grant of @ Rs. 2,000 p.a. mensem — Challenge against — Inability of wife to maintain herself to entitle her to claim maintenance — Fundamental principle regarding grant of maintenance — Qualification by itself cannot be held to be synonymous with ability to maintain themselves — Mere fact that wife has qualification not sufficient *ipso facto* to conclude she is in position to maintain herself — Nothing tangible to show she was actually engaging herself in any teaching activities or professional activity as Lawyer at time when claim made or before spouses started living separately — Mere fact that after separation on some occasions she worked as teacher in some schools not sufficient to take her out of category of persons unable to maintain themselves — No adamant refusal on part of claimant/wife to engage herself in any income earning activity to maintain herself — It was clearly case of her inability to secure any such income earning activities and income to maintain herself — Impugned order warrants no interference — Quantum of maintenance fixed by Court below reasonable and modest considering proved means of petitioner and needs of claimant.

II (2006) DMC 613 (Kerala HC)

- **Section 125** — Maintenance to son after attaining majority — Entitlement — Section 3 of Indian Majority Act, 1875 speaks of attainment of majority — Being major son is not entitled to any maintenance — Maintenance allowed deserves to be set aside.

II (2006) DMC 629 (Calcutta HC)

- **Sections 125 and 397(3)** — Maintenance — Second Revision Petition — Maintainability — Application for maintenance shall be filed within reasonable time, though no limitation prescribed for filing same — If there is any satisfactory reason, application cannot be thrown out merely on ground of delay — Delay in filing application satisfactorily explained — Applicant is legally wedded wife of non-applicant and he is obliged to maintain applicant — Revisional Court erred in disturbing finding of Trial Court which was based on proper appreciation of evidence and logical and not against law — Order of Revisional Court rejecting application of applicant cannot be sustained.

II (2006) DMC 565 (Madhya Pradesh HC)

- **Section 127** — Enhancement of Maintenance — Application thereby alleged change in circumstances — Provision of Section 127, Criminal Procedure Code — Rise in cost of living, increase in earning of husband, etc. fall under purview of change in circumstances — Application allowed.

II (2006) DMC 629 (Calcutta HC)

- **Section 127** — Maintenance — Enhancement — Increase from date of order or from date of application — Increase or decrease of allowance — Effectiveness — Either from date of order or from date of application — It is a matter within the discretion of Magistrate — Nothing to suggest that discretion exercised arbitrarily — Order does not call for any inference.

II (2006) DMC 629 (Calcutta HC)

- **Sections 177, 178(c)** — Indian Penal Code, 1860 — Sections 498A, 325, 307, 506 and 34 r/w Section 4, Dowry Prohibition Act — Territorial Jurisdiction — Cruelty, Grievous Hurt, Attempt to Murder, Criminal Intimidation, Common Intention, Demand of Dowry — According to FIR story, no demand of dowry made at Bargarh nor is there any whisper with regard to any act by petitioners constituting commission of offence at Bargarh — No part of cause of action arose at Bargarh — Section 178(c), Cr.P.C. not attracted — SDJM, Bargarh had no jurisdiction to deal with case — Proceedings quashed.

II (2006) DMC 624 (Orissa HC)

- **Sections 397, 401** — Revisional Jurisdiction — Exercise of powers — Limitation — Manifest error of law and failure of justice apparent on face of record.

II (2006) DMC 523 (Gauhati HC)

- Bail — Grant of — Justifiability — Dowry death, Cruelty, Common intention — Death of deceased within five months of her marriage with respondent No. 2 — Appeal against order of bail granted by High Court to accused and co-accused — Submission by learned Counsel for appellant that no reason indicated by High Court for granting bail except stating that “in peculiar facts and circumstances of case” bail granted because accused is in custody for ten months and also co-accused — High Court did not refer to various orders passed earlier by Additional Sessions Judge and by High Court on earlier occasions — Even factually High Court not correct in stating that accused was in custody for ten months — Cursory perusal of High Court’s order shows complete non-application of mind — Order in case of co-accused is more queer — Bail granted to him as he was brother-in-law and in custody for quite some time — No mention about State’s stand in impugned order — Observation of Additional Sessions Judge that non-genuine documents pressed into service in case of co-accused, not noted by High Court — This Court directs reconsideration of applications for bail by High Court in accordance with law keeping in view principles — Indian Penal Code, 1860 — Sections 498A, 304B r/w Section 34 — Dowry Prohibition Act, 1961 — Section 4 — **Criminal Procedure Code, 1973 — Section 438.**

II (2006) DMC 500 (SC)

- Anticipatory Bail — Grant of — Imposition of condition — Propriety of — High Court granted anticipatory bail to petitioners imposing condition that accused would pay to victim daughter-in-law a sum of Rs. 2,000/- p.m. as maintenance — Applicant before High Court were Jeth and Jethani of victim — This Court fails to understand how they can be made liable to deposit Rs. 2,000/- p.m. for maintenance of victim — While deciding bail application, it is not jurisdiction of Court to decide civil disputes as between parties — Matter remitted to High Court for fresh consideration to pass appropriate order without imposing any condition of nature imposed by impugned order — **Criminal Procedure Code, 1973 — Sections 438, 125.**

II (2006) DMC 552 (SC)

- **Section 439(2)** — Indian Penal Code, 1860 — Sections 498A, 406, 34 — Bail — Cancellation — Cruelty, Criminal Breach of Trust, Common Intention — Anticipatory bail refused to husband by High Court on ground that issue of recovery of stridhan can be investigated through his custodial interrogation — Husband surrendered, though no custodial interrogation carried out — Bail granted to husband by M.M. — Application for cancellation of bail — No ground made to

do so — Question of cancellation of bail stands entirely on different footing from application for release on bail — Considerations entirely different — Unless situations, *i.e.*, tampering with evidence, threatening witnesses, misusing of liberty granted or perversity in order, etc., made out, bail orders not to be interfered with — None of these situations arisen in present case — No question of cancellation of bail granted to accused — Petitioner may be aggrieved by fact that police authorities and particularly Investigating Officer may not have carried out custodial interrogation — That is not fault of accused — Learned Counsel for State points out order of High Court as well as relevant proceedings forwarded to DCP by Metropolitan Magistrate for information — DCP to take appropriate action in accordance with law — No grounds made out for cancellation of bail.

II (2006) DMC 515 (Delhi HC)

— **Section 482** — Indian Penal Code, 1860 — Sections 498A, 420, 506, 120B, 323 — Quashing of charge-sheet and summoning order — Cruelty, Cheating, Criminal Intimidation, Criminal Conspiracy, Hurt — Charge-sheet discloses offence and shows that case against petitioner is *prima facie* made out — Contention, summoning order is non-speaking and liable to be set aside, rejected — Summoning order does not require meticulous consideration of evidence — This Court refrain from giving premature decision where facts are extremely incomplete and hazy, more so evidence not produced before Court and issues involved whether factual or legal are of great magnitude and cannot be seen in their true perspective without sufficient material — No special feature to say it is not expedient and not in interest of justice to permit prosecution to continue — Petition under Section 482, Cr.P.C. dismissed.

II (2006) DMC 586 (Uttaranchal HC)

— **Section 482** — Inherent powers — Exercise of — Discussed.

II (2006) DMC 586 (Uttaranchal HC)

— **Section 482** — Indian Penal Code, 1860 — Sections 498A and 34 — Dowry Prohibition Act, 1961 — Section 4 — Quashing of Proceedings — Cruelty, Common Intention, Dowry Demand — Amicable settlement between parties and marriage dissolved — Informant opposite party No. 2 has lost her interest in prosecution of her husband and in-laws in case — In all likelihood case would end in acquittal — Solemn duty of Court is not to permit unnecessary litigation to linger, but to aim at maintaining peace and tranquillity among parties, if offences alleged to have been committed do not affect public policy and law and order — Court feels further continuance of case would be abuse of process of Court — Proceedings quashed with direction to petitioner No. 1 to pay sum of Rs. 1.50 lacs to opposite party No. 2 wife.

II (2006) DMC 619 (Orissa HC)

— **Section 482** — Inherent Powers — Scope and object — Discussed.

II (2006) DMC 632 (Patna HC)

— **Section 482** — Indian Penal Code, 1860 — Section 498A — Quashing of Proceedings — Cruelty — Complainant wife married to petitioner No. 1 about 11 years back and 2 daughters and two sons born out of this wedlock — Petitioner No. 1 married second time and then third marriage — When complainant protested, she was harassed, tortured and subjected to cruelty at hands of petitioners — He used to demand of Rs. 50,000 and on non-fulfilment she was driven out from house — Complaint made by complainant clearly involves all 3 petitioners before this Court — It cannot be said that there is no offence on reading of complaint and supporting papers.

II (2006) DMC 632 (Patna HC)

— **Sections 482, 320** — Indian Penal Code, 1860 — Sections 406, 498A — Quashing of FIR — Criminal Breach of Trust, Cruelty — Compromise between parties — No likelihood of accused being convicted of offences mentioned in FIR when case would be put on trial — Wife not likely to support imputation made against her husband/in-laws — Section 320, I.P.C. does not limit or affect powers of High Court under Section 482, Cr.P.C., in such cases — Considering facts and circumstances this Court of view that it would be futile exercise and abuse of process of law to continue with proceedings — FIR quashed.

II (2006) DMC 486 (Punjab & Haryana HC)

- **Sections 482, 320** — Indian Penal Code, 1860 — Sections 498A, 323 and 504 — Dowry Prohibition Act, 1961 — Sections 3 and 4 — Quashing of FIR — Compounding of Offence — Cruelty, Hurt, Criminal Intimidation and Dowry Demand — Matter settled by both spouses and relatives — Matrimonial offences are slur on our society and Legislature in its wisdom thought it proper to curb menace of such type of matrimonial disputes with conviction — But this does not mean, interest of justice, which is supreme of all laws and for which Courts exist to be sacrificed at altar of technicalities — It is in interest of both litigating parties to quash proceedings pending against applicants.

II (2006) DMC 600 (Allahabad HC)

Dowry Prohibition Act, 1961

- Dowry Death — Cruelty — Murder of wife — Death of deceased within 7 years of marriage by subjecting her to cruelty and harassment for money — Evidence of doctor that deceased died on account of asphyxia due to throttling and it was not case of suicidal death but homicidal death — On consideration of evidence of witnesses, Court is convinced that involvement of A1 clearly established — Evidence clearly stated about harassment and cruelty by appellant — Ample evidence which shows appellant harassed and ill-treated deceased for dowry and circumstances point out he caused death of deceased — Appellant is guilty for offence under Section 302, IPC — Conviction and sentence recorded by Sessions Judge against appellant for other offences also confirmed — Substantive sentence to run concurrently — Order passed by High Court affirmed — Indian Penal Code, 1860 — Sections 302, 498A, 304B — **Dowry Prohibition Act — Sections 3, 4.**

II (2006) DMC 518 (SC)

- Criminal Procedure Code, 1973 — Sections 482, 320 — Indian Penal Code, 1860 — Sections 498A, 323 and 504 — **Dowry Prohibition Act, 1961 — Sections 3 and 4** — Quashing of FIR — Compounding of Offence — Cruelty, Hurt, Criminal Intimidation and Dowry Demand — Matter settled by both spouses and relatives — Matrimonial offences are slur on our society and Legislature in its wisdom thought it proper to curb menace of such type of matrimonial disputes with conviction — But this does not mean, interest of justice, which is supreme of all laws and for which Courts exist to be sacrificed at altar of technicalities — It is in interest of both litigating parties to quash proceedings pending against applicants.

II (2006) DMC 600 (Allahabad HC)

- Bail — Grant of — Justifiability — Dowry death, Cruelty, Common intention — Death of deceased within five months of her marriage with respondent No. 2 — Appeal against order of bail granted by High Court to accused and co-accused — Submission by learned Counsel for appellant that no reason indicated by High Court for granting bail except stating that “in peculiar facts and circumstances of case” bail granted because accused is in custody for ten months and also co-accused — High Court did not refer to various orders passed earlier by Additional Sessions Judge and by High Court on earlier occasions — Even factually High Court not correct in stating that accused was in custody for ten months — Cursory perusal of High Court’s order shows complete non-application of mind — Order in case of co-accused is more queer — Bail granted to him as he was brother-in-law and in custody for quite some time — No mention about State’s stand in impugned order — Observation of Additional Sessions Judge that non-genuine documents pressed into service in case of co-accused, not noted by High Court — This Court directs reconsideration of applications for bail by High Court in accordance with law keeping in view principles — Indian Penal Code, 1860 — Sections 498A, 304B r/w Section 34 — **Dowry Prohibition Act, 1961 — Section 4** — Criminal Procedure Code, 1973 — Section 438.

II (2006) DMC 500 (SC)

- Criminal Procedure Code, 1973 — Section 482 — Indian Penal Code, 1860 — Sections 498A and 34 — **Dowry Prohibition Act, 1961 — Section 4** — Quashing of Proceedings — Cruelty, Common Intention, Dowry Demand — Amicable settlement between parties and marriage dissolved — Informant opposite party No. 2 has lost her interest in prosecution of her husband

and in-laws in case — In all likelihood case would end in acquittal — Solemn duty of Court is not to permit unnecessary litigation to linger, but to aim at maintaining peace and tranquillity among parties, if offences alleged to have been committed do not affect public policy and law and order — Court feels further continuance of case would be abuse of process of Court — Proceedings quashed with direction to petitioner No. 1 to pay sum of Rs. 1.50 lacs to opposite party No. 2 wife.

II (2006) DMC 619 (Orissa HC)

Evidence Act, 1872

- Indian Penal Code, 1860 — Section 304B — **Evidence Act, 1872 — Section 113A** — Dowry Death — Presumption under Section 113A, Evidence Act attracted only when case of prosecution would be that deceased committed suicide within 7 years of marriage due to commission of cruelty by husband or in-laws due to non-fulfilment of dowry demand — No case of prosecution that deceased committed suicide — Presumption under Section 113A, Evidence Act not applicable — Prosecution not able to prove charges under Sections 498A, 34 and 304B, IPC.

II (2006) DMC 489 (Jharkhand HC)

- Indian Penal Code, 1860 — Sections 107(1), 306 and 201 — **Evidence Act, 1872 — Section 113A** — Abetment of Suicide, Disappearance of Evidence — Presumption under Section 113A not applicable, deceased died after 7 years of marriage — Deceased died unnatural death — P.W. 2 stated he found deceased hanging by Saree tied to her neck — Prosecution succeeded in bringing home charge for conviction under Section 306, IPC — Deceased continuously harassed, troubled and beaten by accused for various reasons, deceased left with no other option except to commit suicide — Case covered by Section 107(1), IPC — Appellant rightly convicted under Section 306, IPC — Further, cause of death could not be ascertained as accused-appellants screened dead body by cremating same without matter being reported or investigated — Case covered by Section 201, I.P.C. — No interference required in conviction and sentence awarded by Trial Court.

II (2006) DMC 534 (Rajasthan HC)

- Indian Penal Code, 1860 — Sections 498A and 304-B — **Evidence Act, 1872 — Section 113B** — Cruelty, Dowry Death — Presumption — Deceased burnt by pouring kerosene on her — Injuries sufficient to cause death in ordinary course of nature — Presence of accused at time of incident not disputed as he also sustained some injuries, but he did not try to save deceased — Deceased died within short period of 3 months of marriage — It is proved she was maltreated by accused and was burnt — Further that soon before her death demands of dowry were made as stated by witnesses — Presumption liable to be raised that accused was responsible for death as deceased died not in normal circumstances but because of burn injuries — All ingredients of Section 304B, IPC Satisfied — Trial Court correctly appreciated evidence in relation to Sections 304B and 498A — Conviction and sentence passed against accused being based on cogent reasons upheld.

II (2006) DMC 568 (Rajasthan HC)

- Evidence — Presumption — Dowry death — Presumption under Section 113B, Evidence Act, would not be drawn against accused if it is shown after alleged demand, cruelty or harassment dispute stood resolved and there was no evidence of cruelty or harassment thereafter — **Evidence Act, 1872 — Section 113B.**

II (2006) DMC 582 (SC)

- Expressions — “Normal circumstances”, “otherwise than under normal circumstances” and “soon before” — Meaning — Indian Penal Code, 1860 — Section 304B — **Evidence Act, 1872 — Section 114 Illustration (a).**

II (2006) DMC 582 (SC)

- Family Courts Act, 1984 — Section 14 — Civil Procedure Code, 1908 — Order 17 — **Evidence Act, 1872** — Relevancy or admissibility of evidence in Civil suit not strictly followed in

proceeding of Family Court — Family Court lost right of Section 14 of Family Courts Act and Order 17 of C.P.C. — Evidence available on record sufficient to show contesting respondent No. 2 has means to maintain petitioners and petitioners not able to maintain themselves being old and infirm — Impugned order rejecting maintenance set aside.

II (2006) DMC 523 (Gauhati HC)

Family Courts Act, 1984

- Indian Divorce Act, 1869 — Sections 2, 10, 11 and 17 — **Family Courts Act, 1984 — Sections 3, 4, 7(1)(a), 8, 19 and 20** — Decree for dissolution of marriage passed by Family Court needs no confirmation — Judgment of Family Court is subject to appellate jurisdiction of High Court under Section 19 of Act and is not subject to confirmation as produced in Section 17 of Indian Divorce Act as it stood prior to amendment in 2001 — Procedure of decree *nisi* and confirmation by High Court as provided in Indian Divorce Act has given way to procedure provided in Family Courts Act — Reference made by Family Court for confirmation under Section 17 of Divorce Act uncalled for and no further order needs to be passed by this Court in civil reference.

II (2006) DMC 591 (Bombay HC) (DB)

- **Section 14** — Civil Procedure Code, 1908 — Order 17 — Evidence Act, 1872 — Relevancy or admissibility of evidence in Civil suit not strictly followed in proceeding of Family Court — Family Court lost right of Section 14 of Family Courts Act and Order 17 of C.P.C. — Evidence available on record sufficient to show contesting respondent No. 2 has means to maintain petitioners and petitioners not able to maintain themselves being old and infirm — Impugned order rejecting maintenance set aside.

II (2006) DMC 523 (Gauhati HC)

Family Laws (Applicable in Goa)

- **Articles 18, 19 and 20** — Annulment of Marriage — Ground — Wife suffering from incurable disease — Type of schizophrenia with which wife is suffering from evidence of Doctor is not found to be incurable — It is not that any type of mental illness or any type of schizophrenia covered by expression “incurable disease” in Article 20 — Evidence of P.W. 5 not sufficient to hold wife suffering from incurable disease — Husband failed to prove wife suffering from incurable disease, question of his consent to marriage caused by mistake does not arise — Case for annulment of marriage not made out.

II (2006) DMC 609 (Bombay HC)

Hindu Marriage Act, 1955

- **Sections 10, 24** — Interim Maintenance — Grant of — Non-compliance of order by plaintiff — Subsistence of divorce proceeding instituted by husband, stayed for non-compliance by husband to pay interim maintenance and costs of litigation — Respondent husband, Class IV employee under Government but he refused to pay anything towards maintenance to appellant wife in spite of order in divorce proceeding — DDO of respondent husband directed to deduct every month from his salary of Rs. 250 being monthly maintenance and Rs. 500 being instalment of arrear of maintenance and remit same to appellant wife.

II (2006) DMC 637 (Gauhati HC) (DB)

- **Section 13** — Divorce — Merely because there are allegations and counter-allegations decree for divorce cannot follow, nor mere delay in disposal of divorce proceedings itself is ground — There must be real and extraordinary features warranting grant of divorce on basis of pleadings.

II (2006) DMC 553 (Andhra Pradesh HC) (DB)

- **Section 13(1)(ia)** — Cruelty — Mere acquittal in criminal case filed by respondent wife against appellant and her in-laws cannot be treated as incident in favour of appellant-husband entitling him to seek divorce on ground of cruelty — Cruelty has to cause reasonable apprehension in petitioner’s mind that it will be harmful or injurious for petitioner to live with other spouse — Conduct of husband in disputing paternity of child, goes against him and he cannot take advantage of his own conduct as ground for divorce — It is stated by wife that harassment meted

out in hands of appellant-husband and his parents became intolerable which drove her to attempt to commit suicide by pouring kerosene on self — No merit in contention of learned Counsel for appellant that it is not safe to continue marital relationship with respondent wife who is having tendency to commit suicide — Appellant failed to make out case of cruelty as ground of divorce — Trial Court considered material brought on record in right perspective and refused to dissolve marriage — No valid ground to interfere with order of Trial Court.

II (2006) DMC 553 (Andhra Pradesh HC) (DB)

- **Section 13(1)(ia) (Hindu Marriage Laws (Amendment) Act, 1976)** — Cruelty — Effect of Amendment — Prior to amendment, cruelty was one of grounds for judicial separation — By Amendment Act, 1976 ‘cruelty’ has been made one of grounds for divorce.

II (2006) DMC 553 (Andhra Pradesh HC) (DB)

- **Sections 25(1), 25(2)** — Permanent Alimony — “Change in circumstances” — Modification of order — Subsequent changes highlighted by husband are remarriage contracted by wife and her gainful employment — Change in circumstances subsequent to order passed by Court below created by husband himself by committing default of original order passed in O.P. — Same cannot be taken to advantage of defaulter himself — Change of circumstances created to disadvantage of wife and to advantage of husband himself — Same cannot be any ground to interfere with original order in any manner by this Court.

II (2006) DMC 507 (Andhra Pradesh HC) (DB)

Indian Divorce Act, 1869

- **Sections 2, 10, 11 and 17** — Family Courts Act, 1984 — Sections 3, 4, 7(1)(a), 8, 19 and 20 — Decree for dissolution of marriage passed by Family Court needs no confirmation — Judgment of Family Court is subject to appellate jurisdiction of High Court under Section 19 of Act and is not subject to confirmation as produced in Section 17 of Indian Divorce Act as it stood prior to amendment in 2001 — Procedure of decree *nisi* and confirmation by High Court as provided in Indian Divorce Act has given way to procedure provided in Family Courts Act — Reference made by Family Court for confirmation under Section 17 of Divorce Act uncalled for and no further order needs to be passed by this Court in civil reference.

II (2006) DMC 591 (Bombay HC) (DB)

Indian Penal Code, 1860

- **Sections 107(1), 306 and 201** — Evidence Act, 1872 — Section 113A — Abetment of Suicide, Disappearance of Evidence — Presumption under Section 113A not applicable, deceased died after 7 years of marriage — Deceased died unnatural death — P.W. 2 stated he found deceased hanging by Saree tied to her neck — Prosecution succeeded in bringing home charge for conviction under Section 306, IPC — Deceased continuously harassed, troubled and beaten by accused for various reasons, deceased left with no other option except to commit suicide — Case covered by Section 107(1), IPC — Appellant rightly convicted under Section 306, IPC — Further, cause of death could not be ascertained as accused-appellants screened dead body by cremating same without matter being reported or investigated — Case covered by Section 201, I.P.C. — No interference required in conviction and sentence awarded by Trial Court.

II (2006) DMC 534 (Rajasthan HC)

- **Section 302** — Murder — Dying declaration — Reliability — Murder of wife by setting her ablaze by husband — Deceased sustained 72-80% burns — Dying declaration, Reliable — Testimony of PWs 1 and 2 doctors reliable — Nothing in cross-examination of Investigating Officer to cause any suspicion regarding recording of statement of deceased in presence of doctor — Patient was fit to make statement — Non detection of kerosene residues cannot be said to be fatal inasmuch as it is no one’s case that deceased was totally doused before she was set ablaze — Prosecution brought home guilt of accused that accused set ablaze his wife-deceased, as result whereof she succumbed to her injuries sufficient in normal course to cause death — Judgment of Trial Court is well reasoned and needs no interference — Judgment of conviction and order of sentence upheld.

II (2006) DMC 494 (Delhi HC) (DB)

- **Sections 302, 34** — Murder — Common intention — Three dying declarations — Reliability — Murder of wife by setting her on fire — Deceased married 2 years back, having one year old son, she was misbehaved and quarrels were there since after her marriage with husband and family members — Dying declarations reliable — Trial Court erred in rejecting statements of deceased made to Doctor, Investigating Officer as also SDM, soon prior to her death — Trial Court's reasoning that statements were result of tutoring, will be stretching matter too far — No witness says any of relatives of deceased was present at time of recording of statement — In absence of positive evidence, not correct to load judicial mind with suspicion — Mother-in-law and sister-in-law had no hand in pouring of kerosene oil or setting ablaze deceased — They seem to have been roped in due to animus — Sufficient evidence on record to show respondent No. 1, husband of deceased was instrumental in bringing about death of deceased by pouring kerosene oil on her and setting her ablaze — Factum of death by burn injuries established by medical evidence — Accused and deceased present in house at time deceased received burn injuries — Trial Court wrongly acquitted accused by giving him benefit of doubt — Prosecution proved guilt of accused beyond reasonable doubt — Accused held guilty for offence under Section 302, IPC and sentenced accordingly — He shall be entitled to benefits of Section 428, Cr.P.C. — Appeal *qua* co-accused dismissed.

II (2006) DMC 544 (Delhi HC) (DB)

- Dowry Death — Cruelty — Murder of wife — Death of deceased within 7 years of marriage by subjecting her to cruelty and harassment for money — Evidence of doctor that deceased died on account of asphyxia due to throttling and it was not case of suicidal death but homicidal death — On consideration of evidence of witnesses, Court is convinced that involvement of A1 clearly established — Evidence clearly stated about harassment and cruelty by appellant — Ample evidence which shows appellant harassed and ill-treated deceased for dowry and circumstances point out he caused death of deceased — Appellant is guilty for offence under Section 302, IPC — Conviction and sentence recorded by Sessions Judge against appellant for other offences also confirmed — Substantive sentence to run concurrently — Order passed by High Court affirmed — **Indian Penal Code, 1860 — Sections 302, 498A, 304B** — Dowry Prohibition Act — Sections 3, 4.

II (2006) DMC 518 (SC)

- **Section 304B** — Evidence Act, 1872 — Section 113A — Dowry Death — Presumption under Section 113A, Evidence Act attracted only when case of prosecution would be that deceased committed suicide within 7 years of marriage due to commission of cruelty by husband or in-laws due to non-fulfilment of dowry demand — No case of prosecution that deceased committed suicide — Presumption under Section 113A, Evidence Act not applicable — Prosecution not able to prove charges under Sections 498A, 34 and 304B, IPC.

II (2006) DMC 489 (Jharkhand HC)

- **Section 304B** — Dowry Death — Reduction in Sentence — Death of deceased due to consumption of aluminium phosphide within 7 years of marriage — It was connected with demand of scooter and was dowry death — Parents of husband would not have benefited from that scooter when they were living separately — Prosecution case not proved against father-in-law and mother-in-law — They are acquitted of charge — Prosecution case duly proved for offence under Section 304B, IPC against appellant accused — Taking into account facts and circumstances of case, substantive sentence of imprisonment of appellant reduced from 10 years to 7 years and sentence of fine maintained.

II (2006) DMC 532 (Punjab & Haryana HC)

- Expressions — “Normal circumstances”, “otherwise than under normal circumstances” and “soon before” — Meaning — **Indian Penal Code, 1860 — Section 304B** — Evidence Act, 1872 — Section 114 Illustration (a).

II (2006) DMC 582 (SC)

- **Section 304B** — Dowry Death — Unnatural death of deceased within 2½ years of marriage with

appellant — Deceased died with extensive burn injuries — Brother-in-law, father-in-law and mother-in-law alleged that appellant used to demand money for television, etc. as dowry — Presumption goes in favour of prosecution — Allegations sufficiently proved by prosecution — No overt act alleged against appellant to cause burn injuries to deceased — Minimum sentence prescribed under law of 7 years may serve purpose.

II (2006) DMC 634 (Jharkhand HC)

— **Sections 304B r/w Sections 34, 498A** — Dowry Death, Common Intention, Cruelty — Death by strangulation — Accused-appellant P.K. adopted in his childhood — His financial condition not stable — Deceased always complaining about harassment to her mother and brother on account of taunting on her for not bringing sufficient dowry — Except for last 15, 20 days, couple was staying only in house of adoptive father of accused-appellant P.K. — Appeal dismissed in respect of accused appellant P.K., other accused appellants acquitted of charges under Section 304B r/w Section 34 and Section 498A r/w Section 34, IPC — Impugned judgment affirmed in part.

II (2006) DMC 510 (Punjab & Haryana HC) (DB)

— Dowry death — Disappearance of evidence — Demand of dowry, *sine qua non* for applying Section 304B, IPC not established so far appellants 1 and 3 are concerned — Evidence is specific against appellant 2 — Conviction of appellant Nos. 1 and 3 cannot be maintained — Custodial sentence of 7 years would meet ends of justice so far as Section 304B, IPC is concerned — Sentence of 3 years imposed in respect of Section 201, IPC warrants no interference — **Indian Penal Code, 1860 — Sections 304B, 201.**

II (2006) DMC 582 (SC)

— **Sections 307, 498A** — Attempt to Murder, Cruelty — Statements of prosecution witnesses clearly establish fact that victim lady was being tortured, assaulted and ill-treated by her husband (appellant) because of non-fulfilment of demand of dowry — He poured kerosene oil and set her on fire, due to which she received burn injuries on head and face — Trial Court rightly convicted and sentenced appellant for offence under Sections 498A, 307, IPC — No infirmity in impugned order.

II (2006) DMC 595 (Jharkhand HC)

— Criminal Procedure Code, 1973 — Sections 482, 320 — **Indian Penal Code, 1860 — Sections 406, 498A** — Quashing of FIR — Criminal Breach of Trust, Cruelty — Compromise between parties — No likelihood of accused being convicted of offences mentioned in FIR when case would be put on trial — Wife not likely to support imputation made against her husband/in-laws — Section 320, I.P.C. does not limit or affect powers of High Court under Section 482, Cr.P.C., in such cases — Considering facts and circumstances this Court of view that it would be futile exercise and abuse of process of law to continue with proceedings — FIR quashed.

II (2006) DMC 486 (Punjab & Haryana HC)

— Maintenance — Grant of — Proof of marriage — Magistrate categorically recorded finding that S failed to establish her marriage with petitioner as well as failed to establish alleged second marriage — As marriage not established between petitioner and S — Question of grant of maintenance under Section 125, Cr.P.C. does not arise — Criminal Procedure Code, 1973 — Section 125 — **Indian Penal Code, 1860 — Section 494.**

II (2006) DMC 599 (SC)

— Criminal Procedure Code, 1973 — Section 482 — **Indian Penal Code, 1860 — Section 498A** — Quashing of Proceedings — Cruelty — Complainant wife married to petitioner No. 1 about 11 years back and 2 daughters and two sons born out of this wedlock — Petitioner No. 1 married second time and then third marriage — When complainant protested, she was harassed, tortured and subjected to cruelty at hands of petitioners — He used to demand of Rs. 50,000 and on non-fulfilment she was driven out from house — Complaint made by complainant clearly involves all 3 petitioners before this Court — It cannot be said that there is no offence on reading of complaint and supporting papers.

II (2006) DMC 632 (Patna HC)

- **Section 498A and its explanation** — Cruelty — Meaning of expression — Scope — Though FIR stated accused ill-treated his wife, no evidence to said effect is forthcoming — Neither any evidence laid to show any demand on part of accused for payment of any dowry — Entire evidence against accused petitioner is when his wife was lying in hospital suffering from TB, accused petitioner did not care to visit her and later on she expired — Such conduct of husband, in totality of facts would fall short of requirements to bring home offence under Section 498A, IPC.

II (2006) DMC 621 (Gauhati HC)

- **Sections 498A, 34** — Cruelty, Common Intention — Prosecution witnesses did not state anything regarding commission of any torture or harassment to deceased by appellant Nos. 2 to 5 for demand of dowry — Ingredients of Section 498A, IPC not supplied — Further accused persons living separately and having separate business — No evidence to hold appellant No. 2 to 5 guilty for offence under Sections 498A, 34, IPC.

II (2006) DMC 489 (Jharkhand HC)

- Criminal Procedure Code, 1973 — Section 482 — **Indian Penal Code, 1860 — Sections 498A and 34** — Dowry Prohibition Act, 1961 — Section 4 — Quashing of Proceedings — Cruelty, Common Intention, Dowry Demand — Amicable settlement between parties and marriage dissolved — Informant opposite party No. 2 has lost her interest in prosecution of her husband and in-laws in case — In all likelihood case would end in acquittal — Solemn duty of Court is not to permit unnecessary litigation to linger, but to aim at maintaining peace and tranquillity among parties, if offences alleged to have been committed do not affect public policy and law and order — Court feels further continuance of case would be abuse of process of Court — Proceedings quashed with direction to petitioner No. 1 to pay sum of Rs. 1.50 lacs to opposite party No. 2 wife.

II (2006) DMC 619 (Orissa HC)

- **Sections 498A and 304-B** — Evidence Act, 1872 — Section 113B — Cruelty, Dowry Death — Presumption — Deceased burnt by pouring kerosene on her — Injuries sufficient to cause death in ordinary course of nature — Presence of accused at time of incident not disputed as he also sustained some injuries, but he did not try to save deceased — Deceased died within short period of 3 months of marriage — It is proved she was maltreated by accused and was burnt — Further that soon before her death demands of dowry were made as stated by witnesses — Presumption liable to be raised that accused was responsible for death as deceased died not in normal circumstances but because of burn injuries — All ingredients of Section 304B, IPC Satisfied — Trial Court correctly appreciated evidence in relation to Sections 304B and 498A — Conviction and sentence passed against accused being based on cogent reasons upheld.

II (2006) DMC 568 (Rajasthan HC)

- Bail — Grant of — Justifiability — Dowry death, Cruelty, Common intention — Death of deceased within five months of her marriage with respondent No. 2 — Appeal against order of bail granted by High Court to accused and co-accused — Submission by learned Counsel for appellant that no reason indicated by High Court for granting bail except stating that “in peculiar facts and circumstances of case” bail granted because accused is in custody for ten months and also co-accused — High Court did not refer to various orders passed earlier by Additional Sessions Judge and by High Court on earlier occasions — Even factually High Court not correct in stating that accused was in custody for ten months — Cursory perusal of High Court’s order shows complete non-application of mind — Order in case of co-accused is more queer — Bail granted to him as he was brother-in-law and in custody for quite some time — No mention about State’s stand in impugned order — Observation of Additional Sessions Judge that non-genuine documents pressed into service in case of co-accused, not noted by High Court — This Court directs reconsideration of applications for bail by High Court in accordance with law keeping in view principles — **Indian Penal Code, 1860 — Sections 498A, 304B r/w Section 34** — Dowry Prohibition Act, 1961 — Section 4 — Criminal Procedure Code, 1973 — Section 438.

II (2006) DMC 500 (SC)

- Criminal Procedure Code, 1973 — Sections 482, 320 — **Indian Penal Code, 1860 — Sections 498A, 323 and 504** — Dowry Prohibition Act, 1961 — Sections 3 and 4 — Quashing of FIR — Compounding of Offence — Cruelty, Hurt, Criminal Intimidation and Dowry Demand — Matter settled by both spouses and relatives — Matrimonial offences are slur on our society and Legislature in its wisdom thought it proper to curb menace of such type of matrimonial disputes with conviction — But this does not mean, interest of justice, which is supreme of all laws and for which Courts exist to be sacrificed at altar of technicalities — It is in interest of both litigating parties to quash proceedings pending against applicants.

II (2006) DMC 600 (Allahabad HC)

- Criminal Procedure Code, 1973 — Sections 177, 178(c) — **Indian Penal Code, 1860 — Sections 498A, 325, 307, 506 and 34 r/w Section 4**, Dowry Prohibition Act — Territorial Jurisdiction — Cruelty, Grievous Hurt, Attempt to Murder, Criminal Intimidation, Common Intention, Demand of Dowry — According to FIR story, no demand of dowry made at Bargarh nor is there any whisper with regard to any act by petitioners constituting commission of offence at Bargarh — No part of cause of action arose at Bargarh — Section 178(c), Cr.P.C. not attracted — SDJM, Bargarh had no jurisdiction to deal with case — Proceedings quashed.

II (2006) DMC 624 (Orissa HC)

- Criminal Procedure Code, 1973 — Section 439(2) — **Indian Penal Code, 1860 — Sections 498A, 406, 34** — Bail — Cancellation — Cruelty, Criminal Breach of Trust, Common Intention — Anticipatory bail refused to husband by High Court on ground that issue of recovery of stridhan can be investigated through his custodial interrogation — Husband surrendered, though no custodial interrogation carried out — Bail granted to husband by M.M. — Application for cancellation of bail — No ground made to do so — Question of cancellation of bail stands entirely on different footing from application for release on bail — Considerations entirely different — Unless situations, *i.e.*, tampering with evidence, threatening witnesses, misusing of liberty granted or perversity in order, etc., made out, bail orders not to be interfered with — None of these situations arisen in present case — No question of cancellation of bail granted to accused — Petitioner may be aggrieved by fact that police authorities and particularly Investigating Officer may not have carried out custodial interrogation — That is not fault of accused — Learned Counsel for State points out order of High Court as well as relevant proceedings forwarded to DCP by Metropolitan Magistrate for information — DCP to take appropriate action in accordance with law — No grounds made out for cancellation of bail.

II (2006) DMC 515 (Delhi HC)

- Criminal Procedure Code, 1973 — Section 482 — **Indian Penal Code, 1860 — Sections 498A, 420, 506, 120B, 323** — Quashing of charge-sheet and summoning order — Cruelty, Cheating, Criminal Intimidation, Criminal Conspiracy, Hurt — Charge-sheet discloses offence and shows that case against petitioner is *prima facie* made out — Contention, summoning order is non-speaking and liable to be set aside, rejected — Summoning order does not require meticulous consideration of evidence — This Court refrain from giving premature decision where facts are extremely incomplete and hazy, more so evidence not produced before Court and issues involved whether factual or legal are of great magnitude and cannot be seen in their true perspective without sufficient material — No special feature to say it is not expedient and not in interest of justice to permit prosecution to continue — Petition under Section 482, Cr.P.C. dismissed.

II (2006) DMC 586 (Uttaranchal HC)

Special Marriage Act, 1954

- Registration of marriage — Imposition of condition — Legality — No provision under Act for publication of factum of marriage in newspaper for purpose of registration.

II (2006) DMC 608 (Punjab & Haryana HC) (DB)
