



SJA NEWSLETTER

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Topic of the Month

Chief Patron

Hon'ble Mr. Justice
Barin Ghosh
Chief Justice

Judge-In-Charge

Hon'ble Mr. Justice
Hakim Imtiyaz Hussain

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Director SJA

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“The Indian Judicial System is constantly exposed to new challenges, new dimensions and new signals and has to survive in a world in which perhaps the only real certainty is that the circumstances of tomorrow will not be the same as those of today.

Judiciary today is more deserving of public confidence than ever before.

Our Judiciary, throughout the Union of India has earned a reputation for great integrity and independence. We are proud of it. We, the members of the Judicial hierarchy have inherited the legacy of dedicated collective endeavour by the Bench and the Bar and established an unbroken tradition of high efficiency, perfect integrity and fearless independence. The true touch stone for measuring the success of a Judicial institution is the degree of confidence reposed in it by the public and it is a matter of great pride that our country has earned for itself the fullest respect and confidence of the public of the nation. The Judgments of the Courts are treated with respect and its stature, in knowledgeable legal circles, is equal to be best amongst other Courts in this land.

The Judiciary has a special role to play in the task of achieving socio-economic goals, enshrined in the Constitution and while maintaining their aloofness and independence, the Judges have to be aware of the social changes in the task of achieving socio-economic justice for the people.

Socrates said that four things improve a great Judge : (a) to hear courteously; (b) to answer wisely; (c) to consider soberly; and (d) to decide impartially.”

(Taken from lecture delivered by Hon'ble Dr. Justice A. R. Lakshmanan, Judge, Supreme Court of India at the All India Conference of Intellectuals in Chennai)

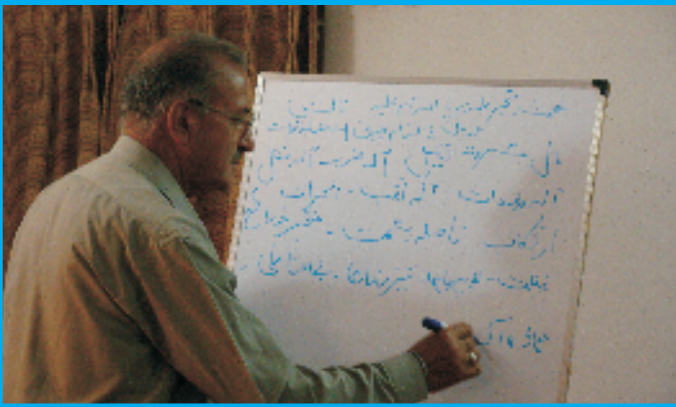
ACADEMY NEWS

Urdu is the Court language of the State of Jammu and Kashmir. Some Judicial Officers particularly of Jammu province are from such background where Urdu is not a medium of instructions during their studies. Urdu is learnt by those Officers mostly after they join service. Some of the Officers face difficulty in dealing with



Shri Rajkumar Chandan, a renowned literary personality while dealing with General Urdu language skills

Court work in Urdu. As such, a need was felt to provide a platform to the Judicial Officers for improving their knowledge of Urdu language so far as Court work is concerned. Keeping in view the said objective, an "Urdu learning programme" was devised by the State Judicial Academy for non-urdu knowing Judicial Officers. Programme was devised in such a way as to make the Judicial Officers



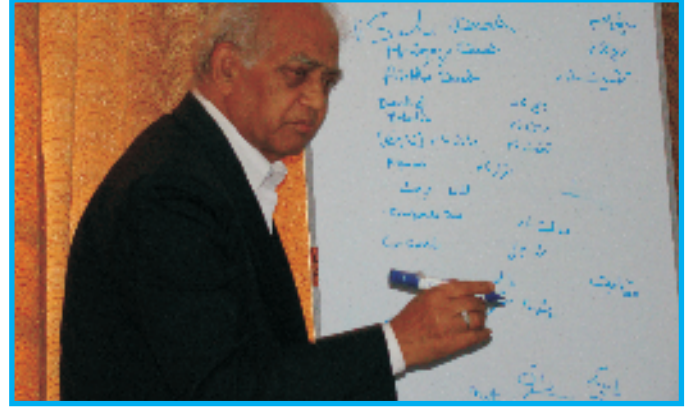
Shri R.L. Revoo, Dy. Director Prosecution (Retd.) While dealing with topic 'Urdu Language used by Investigating Agency'

understand from basic urdu to typical urdu language used in the Courts.

17 days 'Urdu learning programme' was organized by the State Judicial Academy at Jammu from 18th of May, 2009 to 5th of June, 2009. Programme was held in the evening after the Court

hours so that court work may not suffer. Eleven Judicial Officers of Districts Jammu and Samba participated in the programme.

Resource person for the programme were Shri Rajkumar Chandan, a renowned literary personality, Shri Som Dutt Sharma, Advocate, High Court of J&K, Shri D.K. Kapoor, Retired District and Sessions Judge and Shri Rattan Lal Revo, Retired Deputy Director (Prosecution).



Shri S.D. Sharma, Advocate while dealing with topic 'Urdu Language used in the legal field'

11 days of the programme were devoted to 'General Urdu language skills', which was dealt by Shri Rajkumar Chandan. On remaining six days Urdu language used in Court Working was taught to the participating Judicial officers. Shri Som Dutt Sharma, Advocate dealt with the topics (1) 'Urdu language used in the legal field'; (2) 'Urdu language used by Revenue Officers'; and (3) 'Urdu language used in documentation and registration work'.



Shri D.K. Kapoor, District Judge (Retd.) While dealing with topic 'Framing of Charge in Urdu'

Shri D.K. Kapoor dealt with the topics (1) 'Writing of routine Court orders in Urdu' and (2) 'Framing of Charges etc in Urdu'. Shri Rattan Lal Revo dealt with the subject 'Urdu language used by Investigating agency'.

On the concluding day, officers were asked to

write Court orders in urdu language on their own, which they successfully wrote by themselves.

Judicial Officers were immensely benefited from the programme. Urdu language skills of the Officers were considerably improved. Apart from Learning general Urdu language, Officers improved



Participating Judicial Officer while learning Urdu in 'Urdu Learning Programme'

their knowledge of Urdu as Court language. They learnt to write Court orders and statements of witnesses with ease. Officers were taught Urdu words corresponding to English legal terminology. Written material in the shape of 'Urdu lessons', 'English-Urdu Dictionary', 'Urdu-English Dictionary' in digital form were also provided by the Academy to the participating Judicial Officers. Academy is preparing 'English-Urdu Legal Glossary', which is nearing completion, shall also be made available to the participating Judicial Officers shortly.

This programme has not only trained the Judicial Officers in writing routine Court orders and statements of witnesses in Urdu language, but it shall also act as a catalyst in improvement of Urdu as Court language. Judicial officers participating in the programme appreciated the unique effort of the Academy.

2. A refresher course on the topic of "Application of Law in the process of Judging" and "Art of Writing Judgment" was conducted by the State Judicial Academy for Sub-Judges and Munsiffs of Kashmir province in two groups at Srinagar. Programme for the first group was held on 13-06-2009. Shri Hasnain Masoodi, Principal District and Sessions Judge, Srinagar was the Resource person for the topic "Application of Law in the process of Judging" He dealt with the topic in a scholarly manner and made topic very interesting for the participants. Participants showed lot of enthusiasm and put queries to the Resource person in order to clarify points regarding which they had some confusion.

Shri Abdul Wahid, Principal Secretary to Hon'ble the Chief Justice while dealing with the topic "Art of Writing Judgment" told the participants that there is no hard and fast rule of writing judgment which is an art and is generally acquired by practice, however, some guidelines are to be kept in mind while writing judgment in civil as well as criminal cases. He further told the participants that the judgments must be in simple language, short and precise and should be understandable not only by litigants and their counsel but even by strangers.



Shri Abdul Wahid, Principal Secretary to Hon'ble the Chief Justice while delivering lecture

The same programme was repeated for Sub-Judges and Munsiffs of Group 'A' on 27th of June, 2009. Director, State Judicial Academy dealt with both the topics i.e. "Application of Law in the process of Judging" and "Art of Writing Judgment". Director told the participants that ultimate goal of disposal of cases is dispensation of justice and while doing so the law applicable to the facts of cases is to be applied in a way that it advances the cause of justice and helps in speedy and efficacious resolution of the dispute pending before



Refresher course in session

the court. The participants were also told that the substantial justice is to be done and provisions of procedural law i.e. Code of Civil Procedure and Code of Criminal Procedure are to be pressed into service in a way that they subserve the cause of

justice and court is rather able to dispense substantial justice and not get involved in procedural technicalities. In this connection, Director told the participants that ingenuity of the Presiding Officer of the court can be of vital importance so as to apply law in a way that justice in real sense is dispensed with. This is evident by the fact that a Judicial Officer of Delhi Judicial Service was the first Presiding Officer who granted interim maintenance under section 488 of Cr.P.C (Section 125 Central Act). Director also referred to the decision of Addl. District Judge Bhopal regarding the Bhopal Gas tragedy case, where the judge awarded interim compensation to the victims of Gas tragedy. It was even appreciated and upheld by the Hon'ble Supreme Court of India.

About the Art of Writing Judgment, Director told the participants that judgment must be simple, short and concise and must cover all aspects of the case like contentions of the parties and must state in clear terms the law applicable to the facts of the case. The participants were told that some guidelines provided in some judgments can prove fruitful in delivering a proper judgment. The participants were also provided some study material on the topic compiled by the Academy.

LEGAL JOTTINGS

(Case No: Civil Appeal No. 1955 of 2003)

Santosh Kr. Dubey v. State of U.P. & Ors.

Date of Decision: 18/5/2009.

Judge(s) : Hon'ble Dr. Justice Mukundakam Sharma and Hon'ble Dr. Justice B. S. Chauhan.

Subject Index : Compassionate Appointment: Appeal against judgment of Division Bench of Allahabad High Court. In writ petition, petitioner sought direction for appointment on compassionate ground under U.P. Recruitment of Dependence of Government Servant Rules, 1974. Father of appellant, a Govt. servant untraceable since 1981. In another writ petition filed by mother of appellant, court observed that concept of deemed death of the father of the appellant could be invoked since his whereabouts not known for the last 7 years. While dismissing the appeal Apex Court agreed with the observations of the High Court and held that the request for appointment on compassionate ground should be reasonable and approximate to the time of the death of bread earner of the family. This cannot be treated as bonanza and also a right to get an appointment in Government service.

(Case No: Civil Appeal No. 7087 of 2002)

U.O.I v. Bishamber Dass Dogra

Date of Decision : 26/5/2009.

Judge(s): Hon'ble Dr. Justice Mukundakam Sharma and Hon'ble Dr. Justice B.S. Chauhan.

Subject Index : Departmental Enquiry : Respondent working as Security Guard in CISF remained absent from duty without leave. Awarded punishment of withholding of one annual increment for 2 years. Again absented himself for 6 days. Awarded punishment of withholding of one annual increment for 3 years. Again deserted line for 10 days. Show Cause Notice sent to Respondent. Notice was not served. Regular Departmental enquiry was initiated. During the pendency of enquiry, Respondent again absented for 11 days. Enquiry Officer concluded the enquiry and disciplinary authority imposed punishment of removal from service considering past conduct of Respondent. Punishment challenged before the High Court on the ground that non-service of notice has caused prejudice and that the past conduct could not be taken into consideration while imposing punishment. Held by Supreme Court that non-service of notice does not always result into prejudice. Further held that in appropriate circumstances the past conduct of the delinquent officer can be taken into consideration while awarding the punishment. Appeal allowed. Order of punishment imposed by Disciplinary Authority is restored.

(Case No: Civil Appeal No. 772 of 2008)

Sanichar Sawhney v. State of Bihar.

Date of Decision : 26/5/2009.

Judge(s) : Hon'ble Dr. Justice Mukundakam Sharma and Hon'ble Dr. Justice B. S. Chauhan.

Subject Index : Ss. 120-B, 394/302/34 of IPC & Section 27 of Arms Act - Appellant charged u/s 120-B of IPC as co-accused in a case registered u/s 394/302/34 of IPC & Section 27 of Arms Act. Appellant was convicted u/s 120-B IPC and sentenced to undergo rigorous imprisonment for life. Conviction challenged on the ground that since no other co-accused was charged for conspiracy as such, he also could not have been charged for conspiracy. Plea of Appellant was rejected. Held : since appellant charged u/s 120-B and did not raise any question at the time of framing of charge and even when statement under

section 313 of Cr.P.C was recorded, as such, no prejudice has been caused to the appellant. Merely non-framing of charge of conspiracy against other co-accused cannot be a ground for not convicting the appellant when there was evidence against appellant to have hatched the conspiracy. Appeal dismissed. Conviction and punishment upheld.

(Case No: Criminal Appeal No. 1039 of 2005)

Suhelkhan Khudyarkhan & anr. versus State of Maharashtra & ors.

Date of Decision: 15/4/2009.

Judge(s): Hon'ble Dr. Justice Arijit Pasayat, Mr. Justice Lokeshwar Singh Panta and Hon'ble Mr. Justice P. Sathasivam.

Subject Index: Criminal Procedure Code, 1973 chapter X section 133 applicability of to bring in application of Section 133 of the Code, there must be imminent danger to the property and consequential nuisance to the public. The nuisance is the concomitant act resulting in danger to the life or property due to likely collapse etc. The object and purpose behind Section 133 of the Code is essentially to prevent public nuisance and involves a sense of urgency in the sense that if the Magistrate fails to take recourse immediately, irreparable damage would be done to the public. There is confusion between Section 133 and Section 144 of the Code. While the latter is a more general provision the former is more specific. While the order under the former is conditional, the order under the latter is absolute.

(Case No: Cr. Appeal No. 681 of 2003)

Damnu Sreenu v. State of A.P.

Date of Decision : 28/5/2009.

Judge(s) : Hon'ble Dr. Justice Mukundakam Sharma and Hon'ble Dr. Justice B. S. Chauhan.

Subject Index : Section 306 I.P.C. - Appellant charged u/s 306 of IPC was sentenced to undergo a rigorous imprisonment for 3 years. Appellant was alleged to have an illicit relation with wife of deceased, who was also charged u/s 306 IPC as co-accused. Deceased was unhappy with the relation of his wife with the appellant and asked her about it. A quarrel took place between them. Deceased was perturbed and had told about this to his brother. Co-accused wife served the punishment, however, appellant challenged the sentence and punishment.

His appeal was rejected by the High Court. In SLP Supreme Court held from the evidence on record it is clearly established that Accused No. 1 had illicit relation with Accused No. 2 and immediately after the quarrel which took place between deceased and Accused No. 2, suicide was committed and therefore there is definitely a proximity and nexus between the conduct and behaviour of Accused No. 1 and 2 with that of suicide committed by the deceased. No interference is called for in the finding arrived at by the courts below. Appeal dismissed.

(Case No. Cr. Appeal Nos.1158-1159 of 2004)

Union of India v. Shah Alam & Anr.

Date of Decision : 11/6/2009.

Judges(s) : Hon'ble Mr. Justice B. Sudershan Reddy and Hon'ble Mr. Justice Aftab Alam

Subject Index : Sections 8, 21 and 50 NDPS - Personal search - when the conditions to be followed - When some narcotic drug is found in some belongings like bag being carried by the accused, it is not required to follow the procedure under section 50. Belongings of accused cannot be termed as 'person' of the accused. The word "person" would mean a human being with appropriate coverings and clothing and also footwear. A bag, briefcase or any such article or container, etc. can, under no circumstances, be treated as body of a human being. They are given a separate name and are identifiable as such. They cannot even remotely be treated to be part of the body of a human being. Only in 'personal search' the conditions set out in section 50 are to be followed.

NEWS AND VIEWS

Judges get a timetable from the HC to follow

The mounting pendency of cases has prompted the Delhi High Court to direct all judges in the lower courts to fix a time frame of three years for deciding trial of each case.

Each officer must fix time-frame for each stage of trial (like completion of pleadings, framing of charges, recording of evidence) and must ensure adherence by all concerned, said the court.

“Endeavour shall be made to gradually reduce the average trial period of each case (civil and criminal) to 2/3 years,” the Delhi High Court has said, issuing a slew of directions to enhance the disposal

rate.

The directive assumes importance as the official figure puts the arrear of cases at 22,829 which includes 1,766 murder cases in Sessions courts in the capital as on February 1, this year. A total of 43,024 civil cases are also pending.

Among the measures, the judicial officers have been asked to keep in mind that they have to decide on at least two murder cases each month.

With an aim to making the judges utilize the court's time in a proper manner, the High Court has said, "Each officer must exercise effective control over case list to ensure optimum utilization of judicial time and resources."

(HT/15.06.2009)

All drivers in car accidents can claim insurance

Have you lost an accident insurance claim because your car was being driven by somebody who was not your 'paid' driver?

Now, those who have lost such claims since 1995 under the Personal Accident (PA) Cover can re-claim.

The Bombay High Court recently directed the Insurance Regulatory and Development Authority and Tariff Advisory Committee (TAC) to publicise the circular in which the TAC has clarified that unpaid / unnamed drivers are also covered under the policy.

On October 4, 2005, TAC had issued a circular clarifying that it has deleted the words "but not driving" from the India Motor Tariff (IMT) of 2002, which means unpaid drivers and non-owners driving the car are covered under the policy. But many insurance companies issued policies without incorporating the modification. And later, they rejected claims citing the deleted clause.

The issue came to light when the family of Rajesh Sheth, who died in a motor accident, filed a public interest litigation after the insurance company rejected its claims.

Rajesh died in a road accident in 2004. He was driving the family car, which was in the name of his father Girishkumar Sheth.

Girishkumar had a car insurance policy from New India Assurance Co. Ltd. that covered personal accident risk to: (i) owner-driver (Girishkumar), (ii) paid driver and (iii) unnamed passengers.

Sheth claimed Rs 2 lakh for Rajesh's death but the company rejected it as "the policy covered only owner-driver, paid-driver and unnamed passengers

but not an unpaid driver, which the deceased [Rajesh] was".

Upholding the Sheth family's entitlement, the court said: "If there are individual grievances of the people between the period 1995 to 2002, insurance companies will examine the same in accordance with law," the court said.

(HT/4.06.2009)

Job prospects count in alimony : Court

The earning capacity and professional qualifications of a woman are to be considered when deciding on permanent alimony in a divorce case, the Bombay high court has said, even as it declined a former air-hostess's plea to increase the amount.

A Division Bench comprising Justices B.H. Marlapalle and Ravi Deshpande rejected the petition taking into account the fact that Jaspreet, a resident of Mumbai, had obtained a diploma in fashion designing and planned to make a career in the city.

The judges also nixed the contention of her ex-husband Jaspal, a senior employee with Air India, that there was no need for him to pay up and asked him to keep giving her Rs 20,000 per month or a lump sum of Rs 20 lakh.

"If she (Jaspreet) desires to stay in Mumbai or Delhi, it cannot be accepted that she will be without any professional or employment income in fashion design or any other related field," said the judges. "She must stand on her own as a professional and she appears to have made her own arrangements with her sister to stay in Mumbai by choice and obviously to pursue a career. She cannot expect, as a matter of legal right, that the amount of permanent alimony must include the financial requirements for her stay in Mumbai or for that matter in Delhi."

Jaspal had moved the family court for divorce in 1997 after one-and-a-half years of marriage, alleging cruelty. Subsequently, the couple obtained divorce by mutual consent. While Jaspreet challenged the alimony amount of Rs 20,000, Jaspal opposed the alimony arrangement itself. Jaspreet claimed that her ex-husband earned around Rs 2 lakh per month and produced his income-tax returns between 2001 and 2003 which ranged from Rs 18 lakh to Rs 24 lakh. Jaspreet claimed 20-30% of this income as permanent alimony, arguing that she was "unemployed and was entitled to live a comfortable life till such time that she gets remarried".

Jaspal opposed paying any alimony, claiming that Jaspreet had suppressed information about her employment. His lawyers further pointed out that it

was not conceivable that Jaspreet, with a qualification in fashion designing, would remain unemployed. “On the contrary, in a city like Mumbai or Delhi she will get professional assignments or a job with a handsome salary,” they argued.

The court upheld the order of alimony, but declined to enhance it. It said that if she chooses to remain in Mumbai, “she cannot claim any provision for her residence”. The court also said that if the amount was paid in a lump sum, Jaspreet could get a head start in her career.

(HT/4.06.2009)

CASE COMMENTS

South Konkan Distilleries & Ors.

v.

Prabhakar Gajanan Naik & Ors.

2008 (6) Supreme 714

“Can an amendment be allowed in respect of claim barred by law of limitation”.

As a matter of general rule a party can not be allowed, by amendment to set up a new case or a new cause of action particularly when a suit on the new cause of action is barred by law of limitation.

In the case under comments two exceptions are, however, enunciated by Hon’ble Apex Court to the aforesaid proposition. These are :-

1) Where the amendment sought to be introduced does not constitute the addition of new cause of action or raise a different case but amounts merely to a different or additional approach to the same facts, the amendment is to be allowed even after expiry of statutory period of limitation.

2) Where the limitation aspect qua the claim sought to be introduced by reason of amendment remains a disputed question of fact and an arguable point, in that eventuality also amendment has to be allowed and an issue is required to be raised on limitation in the suit itself.

In the case in hand there was no dispute that the claim sought to be introduced through amendment was barred by limitation and resultantly rejection of amendment application by Courts below was upheld by Hon’ble Supreme Court.

(Amarjeet Singh Langeh)

Munsiff, Ramban

Durgesh Sharma v. Jayshree

AIR 2009 SC 285

Inherent Powers of Court - The scope of Section 151 of the Code of Civil Procedure is often misunderstood and misapplied. It is neither possible nor desirable to lay down any inflexible rule which would govern the exercise of inherent jurisdiction of courts, therefore, courts have inherent powers apart from express provision of law which are necessary for proper discharge of functions and duties imposed upon them by law as no legislative enactment dealing with procedure can provide for all cases that may possibly arise.

All courts whether civil or criminal possess, in the absence of express provision, as inherent in their constitution, all such powers as are necessary to do the right and to undo a wrong in course of administration of justice on the principle “when the law gives a person any thing, it gives him that without which it cannot exist. It is to be exercised *ex debito justitiae* to do real and substantial justice for the administration of which alone courts exist. Authority of the court exist for advancement of justice and to prevent abuse.

The Hon’ble Supreme Court in ‘Durgesh Sharma v. Jayshree’, AIR 2009 SC 285 has held that inherent powers may be exercised *ex debito justitiae* in those cases where there is no express provision in the code. The said powers cannot be exercised in contravention or in conflict of or ignoring express and specific provision of law. Section 151 has no application for transferring a case as there are specific provisions which are exhaustive in nature.

Thus it could be presumed that the procedure specifically provided for orders in certain circumstances is dictated by the interest of justice. The section is widely worded to enable the courts to do justice in proper cases, where specific provisions does not meet the necessities of the case.

(Deepak Sethi)
Chief Judicial Magistrate
Ramban

Gaurav Nagpal v. Sumedha Nagpal

AIR 2009 SC 557

Parents Patriae Jurisdiction of the Court
Section 13 of Hindu Minority and Guardianship Act, 1957, provides that in the appointment or declaration of any person as guardian of a Hindu minor by a Court, the welfare of the minor shall be the paramount consideration. It is further provided that no person shall be entitled to the guardianship by virtue of the provisions of this Act or of any law relating to guardianship in marriage among Hindus, if the Court is of opinion that his or her guardianship will not be for the welfare of the minor.

In the aforesaid case, the Apex Court has held that the principles in relation to the custody of a minor child are well settled. In determining the question, as to who should be given custody of a minor child, the paramount consideration is the welfare of the child and not the rights of the parents under a statute for the time being in force.

It has been further held that the word 'welfare' used in Section 13 of the Act has to be construed literally and must be taken in its widest sense. Though the provisions of the special statutes which govern the rights of the parents or guardians may be taken into consideration, there is nothing which can stand in the way of the Court exercising its parents patriae jurisdiction arising in such cases.

(*M. K. Sharma*)
Electricity Magistrate,
Jammu

Raj Nath v. State of U.P.
AIR 2009 SC 1422

Section 141 of R.P.C corresponding to Section 141 of I.P.C defines unlawful assembly. It has one of the important ingredients as 'common object'. Section 149 makes every member of the unlawful assembly liable if any member thereof commits an offence in pursuance of the 'common object' of the unlawful assembly. Common object is not to be confused with common intention, as any criminal act done with common intention has been separately made punishable under Section 34 of the Penal Code.

Hon'ble Supreme Court of India in a recent judgment titled "Raj Nath v. State of U.P.", reported as AIR 2009 SC 1422, has given a yardstick to find out the 'common object' from the attending circumstances of the case and how it is distinguishable from 'common intention'. It has been held as under:

“ 'Common object' is different from a 'common intention' as it does not require a prior concert and a common meeting of minds before the attack. It is enough if each has the same object in view and their number is five or more and that they act as an assembly to achieve that object. The 'common object' of an assembly is to be ascertained from the acts and language of the members composing it, and from a consideration of all the surrounding circumstances. It may be gathered from the course of conduct adopted by the members of the assembly. For determination of the common object of the unlawful assembly, the conduct of each of the members of the unlawful assembly, before and at the time of attack and thereafter, the motive for the crime, are some of the

relevant considerations. What the common of the unlawful assembly is at a particular stage of the incident is essentially a question of fact to be determined, keeping in view the nature of the assembly, the arms carried by the members, and the behaviour of the members at or near the scene of the incident. It is not necessary under law that in all cases of unlawful assembly, with an unlawful common object, the same must be translated into action or be successful.”

(*R. S. Jasrotia*)
Railway Magistrate
Jammu

Babasaheb Apparao Patil
v.
State of Maharashtra
AIR 2009 SC 1461

Most often an argument is put forth on behalf of defence, in a criminal case that because of discrepancies in evidence of prosecution the evidence ought not be relied upon. Credibility of the witness is also doubted for having some contradictions in his testimony. There may be some cases where the discrepancies or contradictions are such that the basic version of prosecution is not affected thereby, in those cases the discrepancies or contradictions are not material and as such cannot be used to discredit the testimony of a witness or to doubt the evidence of prosecution. Only in those cases where the contradictions and discrepancies are directly related to the incident and are material contradictions affecting the credibility of evidence, the evidence cannot be relied upon. Some contradictions and discrepancies are bound to happen even in the evidence of a truthful witness, due to the normal error of perception or fading human memory.

Hon'ble Supreme Court in a case titled 'Babasaheb Apparao Patil v. State of Maharashtra, reported as AIR 2009 SC 1461, has addressed to such like situations. It has been observed by the Apex Court that:

“The discrepancies which do not shake the basic version of the prosecution case may be discarded. Similarly, the discrepancies which are due to normal errors of perception or observation should not be given importance. The Court by calling into aid its vast experience of men and matters in different cases must evaluate the entire material on record as a whole and should not disbelieve the evidence of a witness altogether, if it is otherwise trustworthy.”

(*Jatinder Singh Jamwal*)
City Judge, Srinagar