



As 2021 draws to a close, **LiveLaw** brings to you a round-up of the major judgments of the Supreme Court of this year.

This year, in view of the huge number of significant judgments, the round-up is done in three parts. This part covers 52 major decisions from January to June 2021. The [second](#) and [third parts](#) will cover the significant judgments delivered during the second half of 2021.

January 2021

Also Read - [All Supreme Court 2021 Digests & Round-Up Reports In One Place](#)

1. Supreme Court Upholds Centre's Plan For The Central Vista Project by 2:1 Majority, Justice Khanna Dissents

[**Case:** [Rajeev Suri v. DDA & Ors.](#); **Citation:** LL 2021 SC 1; Order dated January 5, 2021]

The Supreme Court upheld the Central Government's plan for construction of the Central Vista project and the government's proposal to construct a new Parliament in

Lutyen's Delhi. A Bench of **Justices AM Khanwilkar, Dinesh Maheshwari and Sanjiv Khanna** pronounced the judgement, with Justices Khanwilkar and Maheshwari forming the majority, and with Justice Khanna pronouncing a separate judgement.

Also Read - [Supreme Court Stays Madras HC Order Directing Deposit In CM's Public Relief Fund For Release Of Vehicle](#)

"We cannot be called upon to govern. For, we have no wherewithal or prowess and expertise in that regard," remarked the Judges in majority. Justice Khanna on the other hand expressed dissent on the aspects of public participation on interpretation of the statutory provisions, failure to take prior approval of the Heritage Conservation Committee and the order passed by the Expert Appraisal Committee.

Also Read - ['Under Pretext Of Cow Slaughter, Police Officer Lynched' : Supreme Court Stays Bail Granted To Accused In Bulandshahr Violence](#)

Also Read: [Central Vista- Lack Of Public Consultation, No Approval From HCC, Non Speaking Order Granting Environment Clearance: Justice Sanjiv Khanna In His Dissent](#)

Also Read: ['We Cannot Be Called Upon To Govern. For We Have No Wherewithal or Prowess And Expertise In That Regard': Supreme Court In Central Vista Case](#)

2. Whether Non-Payment Of Stamp Duty On Commercial Contract Will Invalidate Arbitration Agreement? Supreme Court Refers Issue To Constitution Bench

Also Read - [Acquittal In A Criminal Trial Has No Bearing Or Relevance On The Disciplinary Proceedings: Supreme Court](#)

**[Case : N.N. GLOBAL MERCANTILE PVT. LTD VS. INDO UNIQUE FLAME LTD;
CITATION: LL 2021 SC 13; Order dated January 13, 2021]**



A three-judge bench of the Supreme Court has observed that non-payment of stamp duty on the commercial contract will not invalidate the arbitration agreement.

Disagreeing with two earlier judgments in this regard, the bench comprising **Justices DY Chandrachud, Indu Malhotra and Indira Banerjee** referred the following question to the Constitution Bench.

"Whether the statutory bar contained in Section 35 of the Indian Stamp Act, 1899 applicable to instruments chargeable to Stamp Duty under Section 3 read with the Schedule to the Act, would also render the arbitration agreement contained in such an instrument, which is not chargeable to payment of stamp duty, as being non-existent, unenforceable, or invalid, pending payment of stamp duty on the substantive contract / instrument ? "

The bench also observed that the ground that allegations of fraud are not arbitrable is a wholly archaic view, which has become obsolete, and deserves to be discarded.

3. Incorporation Of One-sided And Unreasonable Clauses In Apartment Buyer's Agreement Constitutes An 'Unfair Trade Practice': Supreme Court

[**Case:** Ireo Grace Realtech Pvt. Ltd. v. Abhishek Khanna; **Citation:** LL 2021 SC 14A; *Order dated January 11, 2021*]

The bench comprising **Justices DY Chandrachud, Indu Malhotra and Indira Banerjee** held that the incorporation of one-sided and unreasonable clauses in the Apartment Buyer's Agreement constitutes an unfair trade practice under Section 2(1)(r) of the Consumer Protection Act. It also observed that the Developer cannot compel the apartment buyers to be bound by the one-sided contractual terms contained in the Apartment Buyer's Agreement.

The Court held thus while disposing an appeal filed by a Developer against an order passed by National Consumer Disputes Redressal Commission directing it to refund of the amounts deposited by the Apartment Buyers on account of the inordinate delay in completing the construction and obtaining the Occupation Certificate.

4. Is Appointment Of Arbitrator By Ineligible Person Valid? Supreme Court Refers Issue To Larger Bench

[**Case Title:** [Union of India v. M/S Tantia Constructions Ltd.](#); **Citation:** LL 2021 SC 22]

Order dated January 11, 2021

A bench comprising **Justices RF Nariman, Navin Sinha and KM Joseph** doubted the correctness of the decision in *Central Organisation for Railway Electrification vs. M/s ECI-SPIC-SMO-MCML (JV) A Joint Venture Company* and referred to larger bench the issue whether the appointment of an arbitrator by a person, who is disqualified to be an arbitrator as per Section 12(5) of the Arbitration Act, is valid.

5. Supreme Court Upholds Sections 3, 4 & 10 Of IBC Amendment Act 2020

[**Case:** [Manish Kumar v. Union of India](#); **Citation:** LL 2021 SC 25] *Order dated January 19, 2021*

A bench comprising **Justices RF Nariman, Navin Sinha and KM Joseph** upheld the constitutional validity of Sections 3, 4 and 10 of the Insolvency and Bankruptcy Code (Amendment) Act 2020, in effect upholding the threshold limit on homebuyers.

The Court rejected the petitioners' contentions that such conditions on homebuyers amounted to hostile discrimination violating the equality principle under Article 14 of the Constitution. The Court held that a homebuyer, though treated as an unsecured creditor as per the judgment in [Pioneer case](#), stands on a different footing from other creditors.

Also Read: [Minimum Threshold For Homebuyers' Insolvency Process Against Builder Shields Frivolous & Avoidable Applications : Supreme Court](#)

Also Read: ['Malice' Is Not A Ground To Challenge A Law Made By Legislature : Supreme Court](#)

6. Benefit Of Probation (PO Act) Is Not Excluded By Mandatory Minimum Sentences Prescribed For IPC Offences: Supreme Court

[**Case:** [Lakhvir Singh v. State of Punjab](#); **Citation:** LL 2021 SC 27] *Order dated January 19, 2021*

A bench comprising **Justices Sanjay Kishan Kaul** and **Hrishikesh Roy** observed that the benefit of probation under Probation of Offenders Act, 1958 is not excluded by the provisions of the mandatory minimum sentence prescribed for offences under IPC.

In the facts of the case, the Court observed that Section 4 of the Act could come to the aid of the accused as the offence committed, of which they have been found guilty, is not punishable with death or imprisonment for life. The court also added that since they were under 21 years of age on the date of the offence and not on the date of conviction, Section 6 would not come to their aid.

7. Supreme Court Dismisses Review Petitions Challenging Aadhaar Verdict, Justice Chandrachud Dissents

[**Case:** [Beghar Foundation v. Justice K.S. Puttaswamy \(Retd.\)](#); **Citation:** LL 2021 SC 30]

Order dated January 11, 2021

The Supreme Court, by 4:1 majority, has dismissed a batch of review petitions challenging the judgment of the Constitution Bench in Aadhaar case [Puttaswamy (Aadhaar-5J.) v Union of India]. While Justices AM Khanwilkar, Ashok Bhushan, S.



Abdul Nazeer and BR Gavai observed that no case for review of judgment, Justice DY Chandrachud expressed his dissent.

The review petitions were not heard in open court, but 'by circulation'. According to majority, a change in the law or subsequent decision/judgment of a coordinate or larger Bench by itself cannot be regarded as a ground for review. On the other hand, Justice Chandrachud opined that the review petitions should be kept pending until the larger bench decides the questions referred to it in Rojer Mathew.

Also Read: [Constitutional Error To Hold At This Stage That No Ground Exists To Review Aadhaar Verdict: Justice Chandrachud Dissents](#)

8."Whether 'Advocate On Record' Includes Sole Proprietary Firm?" Supreme Court Leaves The Question To SC Rule Making Authority

[**Case Title:** [In Re: Advocate On Record Includes A Proprietary Firm Etc.](#); **Citation:** LL 2021 SC 37]

Order dated January 20, 2021

In the context of the 2013 Supreme Court Rules, a bench of **Justices SK Kaul, Dinesh Maheshwari** and **Hrishikesh Roy** left it to the Rule making authorities to examine whether they would like to expand the registration of Advocates on Record to permit persons to carry on the profession in the style and name of a sole proprietorship firm.

The Court was considering a *suo motu* writ petition on whether "Advocate on Record includes a proprietary firm". "Whether an AOR can have his entry in the AOR register in the form of his style of carrying on his profession: Instead of just "Name" as "Name", Sole Proprietor, Law Chambers of "Name"?", was the question framed. "*The (Supreme Court) Rules being sacrosanct, we would not like to interfere with the same in the present proceeding*", said the bench.

February 2021

9. Violation Of Fundamental Right To Speedy Trial Is A Ground For Constitutional Court To Grant Bail In UAPA Cases: Supreme Court

[Case: [Union of India v. KA Najeeb](#); Citation: LL 2021 SC 56]

A bench comprising **Justices NV Ramana, Surya Kant** and **Aniruddha Bose** held that Section 43D (5) of UAPA per se does not oust the ability of Constitutional Courts to grant bail on ground of violation of Fundamental Right to Speedy Trial. It held, *"Whereas at commencement of proceedings, Courts are expected to appreciate the legislative policy against grant of bail but the rigours of such provisions will melt down where there is no likelihood of trial being completed within a reasonable time and the period of incarceration already undergone has exceeded a substantial part of the prescribed sentence."*

The court observed this while dismissing the appeal filed by NIA against an order of the Kerala High Court granting bail to the accused in palm chopping of Thodupuzha Newman College professor TJ Joseph in 2011.

10.SC Judgment Which Excluded Persons With Over 50% Visual/Hearing Impairment From Judicial Service No Longer Binding Precedent: Supreme Court

[Case: [Vikash Kumar v. UPSC](#); Citation: LL 2021 SC 76]

A bench comprising of **Justices DY Chandrachud, Indira Banerjee** and **Sanjiv Khanna** observed that the decision in [V Surendra Mohan v. State of Tamil Nadu](#) would "not be a binding precedent", after the coming into force of the Rights of Persons with Disabilities Act 2016. The Bench in the same judgment also held that facility of scribe



can be provided for persons with disabilities other than those having benchmark disabilities.

In Surendra Mohan, a two-judge bench of the Supreme Court had held that stipulating a limit of 50% disability in hearing impairment or visual impairment as a condition to be eligible for the post of a judicial officer is a legitimate restriction. In the present case, the Supreme Court said, *"The principle of reasonable accommodation captures the positive obligation of the State and private parties to provide additional support to persons with disabilities to facilitate their full and effective participation in society."*

Also Read: [Benchmark Disability Not A Precondition To Obtain A Scribe: Supreme Court Allows Scribe For UPSC Candidate With 'Writer's Cramp'](#)

11. "Right To Protest Cannot Be Any Time And Everywhere": Supreme Court Dismisses Review Petition Against 'Shaheen Bagh' Judgment

[Case: [Kaniz Fatima v. Commissioner of Police](#); Citation: LL 2021 SC 83]

A three judge bench consisting of **Justices Sanjay Kishan Kaul, Aniruddha Bose** and **Krishna Murari** dismissed the review petition filed against the [Shaheen Bagh Judgment](#) in which it is held that the demonstrations expressing dissent have to be in designated places alone. Dismissing the review petition, the bench held that the right to protest cannot be anytime and everywhere.

"We have considered the earlier judicial pronouncements and recorded our opinion that the Constitutional scheme comes with a right to protest and express dissent but with an obligation to have certain duties. The right to protest cannot be anytime and everywhere. There may be some spontaneous protests but in case of prolonged dissent or protest, there cannot be continued occupation of public place affecting rights of others," the Court said.

12. Supreme Court Closes *Suo Moto* Case Taken To Probe "Larger Conspiracy" Behind Sexual Harassment Allegations Against Ex-CJI Gogoi

[Case: [In Re: Matter Of Great Public Importance Touching Upon The Independence Of Judiciary](#); Citation: LL 2021 SC 95]

A bench comprising of **Justices Sanjay Kishan Kaul, AS Bopanna** and **V. Ramasubramanian** closed the *suo moto* proceedings which were instituted to examine if there was a "larger conspiracy" behind the allegations of sexual harassment against the then Chief Justice of India Ranjan Gogoi.

The bench observed that enquiry panel headed by former SC judge Justice AK Patnaik has submitted a report opining that a conspiracy behind the sexual harassment allegations cannot be "ruled out". The report also surmised that certain tough stances taken by ex-CJI Gogoi during his tenure could have triggered the allegations. The report also referred to an Intelligence Bureau input that several persons were unhappy with Justice Gogoi for driving the Assam-NRC process.

March 2021

13 . Whether Day Of Remand Is To Be Included For Considering A Claim For Default Bail? Supreme Court Refers To Larger Bench

[Case: [Enforcement Directorate v. Kapil Wadhawan](#); Citation: LL 2021 SC 118]

Whether the day of remand is to be included or excluded, for considering a claim for default bail? The Supreme Court referred this issue to a larger bench.

A bench comprising **Justices Sanjay Kishan Kaul** and **Hrishikesh Roy** noticed that, in [State of MP v. Rustom & Ors.](#) 1995 (Supp) 3 SCC 221 , [Ravi Prakash Singh v. State of Bihar](#) (2015) 8 SCC 340 and [M. Ravindran v. Intelligence Officer, Director of Revenue Intelligence](#), it was held that the date of remand is to be excluded for computing the

permitted period for completion of investigation. On the other hand, the judgments in [Chaganti Satyanarayan v. State of Andhra Pradesh](#) (1986) 3 SCC 141 , [CBI v. Anupam J Kulkarni](#) (1992) 3 SCC 141 , [State v. Mohd. Ashraft Bhat](#) (1996) 1 SCC 432, [State of Maharashtra v. Bharati Chandmal Varma](#) (2002) 2 SCC 121, and [Pragyna Singh Thakur v. State of Maharashtra](#) (2011) 10 SCC 445, have held that the date of remand must be included for computing the available period for investigation for determining entitlement to default bail.

14. Moratorium Under Section 14 IBC Covers Section 138 NI Act Proceedings Against Corporate Debtor For Cheque Dishonour : Supreme Court

Case: [P Mohanraj & Ors. v. M/s Shah Brothers Ispat Ltd.](#); **Citation:** LL 2021 SC 120]

The Supreme Court held that the declaration of moratorium under Section 14 of the Insolvency and Bankruptcy Code(IBC) covers criminal proceedings for dishonour of cheque under Section 138 of the Negotiable Instruments Act against the corporate debtor.

"We hold that a Section 138/141 NI Act proceeding against a corporate debtor is covered by Section 14(1)(a) of the IBC", Justice RF Nariman said reading out the operative portion of the judgment.

A Bench comprising of **Justices RF Nariman, Navin Sinha** and **KM Joseph** also observed that an application under Section 34 of the Arbitration and Conciliation Act to set aside an award is covered by moratorium under Section 14 of the Insolvency and Bankruptcy Code.

Section 34 proceeding is a proceeding against the corporate debtor in a court of law pertaining to a challenge to an arbitral award and would be covered just as an appellate proceeding in a decree from a suit would be covered



15. Amounts Paid By Indian Companies To Use Foreign Software Not 'Royalty'; Not Income Taxable In India; No TDS Liability : Supreme Court

[Case: [Engineering Analysis Centre for Excellence Private Ltd vs The Commissioner of Income Tax](#); Citation: LL 2021 SC 124]

Settling an important issue in the income tax law, a bench comprising **Justices R F Nariman, Hemant Gupta and BR Gavai** held that the amounts paid by Indian companies for the use of softwares developed by foreign companies do not amount to 'royalty' and that such payment do not give rise to income which is taxable in India. Therefore, there is no liability for Indian companies to deduct tax at source with respect to purchase of software from foreign companies.

16. Limitation Period For Filing 'Section 34' Petition Commences From Date Of Receipt Of Signed Copy Of Arbitral Award By Parties: Supreme Court

[Case: [Dakshin Haryana Bijli Vitran Nigam Ltd. v. M/S Navigant Technologies Pvt. Ltd.](#); Citation: LL 2021 SC 126]

A bench comprising **Justices Indu Malhotra and Ajay Rastogi** observed that the period of limitation for filing the Petition under Section 34 of the Arbitration and Conciliation Act would commence from the date on which the signed copy of the award was made available to the parties

17. OBC Reservation Cannot Exceed 50%: Supreme Court Reads Down Section 12(2)(c) Maharashtra Zilla Parishads and Panchayat Samitis Act

[Case: [Vikas Kishanrao Gawali v. State Of Maharashtra](#); Citation: LL 2021 SC 132]

The Supreme Court read down Section 12(2)(c) of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 which provides reservation of 27 per cent of seats in the Zilla Parishads and Panchayat Samitis.

"Reservation in favour of OBCs in the concerned local bodies can be notified to the extent that it does not exceed aggregate 50 per cent of the total seats reserved in favour of SCs/STs/OBCs taken together," the bench comprising **Justices AM Khanwilkar, Indu Malhotra** and **Ajay Rastogi** observed.

18. Sole Proprietorship Will Fall Under International Commercial Arbitration If Proprietor Is Foreign Resident: Supreme Court

[**Case:** [Amway India v. Ravindranath Rao & Anr.](#); **Citation:** LL 2021 SC 133]

A bench comprising **Justices RF Nariman** and **BR Gavai** held that a sole proprietorship will fall under international commercial arbitration if the proprietor is a habitual resident of a foreign country, notwithstanding the fact that the proprietary concern is carrying out business in India.

The Bench set aside an order of the Delhi High Court appointing an arbitrator in the case *Amway India v. Ravindranath Rao*, holding that the High Court had no jurisdiction as the dispute was an international commercial arbitration within the meaning of Section 2(1)(f) of the Arbitration and Conciliation Act.

19. All Consumer Complaints Filed Before CPA 2019 Should Be Heard By Fora As Per Pecuniary Jurisdiction Under CPA 1986: Supreme Court

[**Case:** [Neena Aneja & Ors. v. Jai Prakash Associates Ltd.](#); **Citation:** LL 2021 SC 164]

The Supreme Court held that consumer complaints filed before the coming into effect of the Consumer Protection Act 2019(CPA 2019) should continue in the fora in which they were filed as per the pecuniary jurisdiction under the previous Consumer Protection Act of 1986(CPA 1986).

A bench comprising **Justices DY Chandrachud** and **MR Shah** set aside the directions of the National Consumer Disputes Redressal Commission that the previously



instituted cases as per the 1986 Act should be transferred to the respective fora as per the new pecuniary limits under the 2019 Act.

20. Default Bail: State Cannot Take Advantage Of Filing One Charge Sheet First And Seeking Time To File Supplementary Charge-sheets To Extend The Time Limit U/S 167(2)

[Case: [Fakhrey Alam v. State of Uttar Pradesh](#); Citation: LL 2021 SC 165]

A bench comprising **Justices Sanjay Kishan Kaul** and **R. Subhash Reddy** observed that the time period for investigation specified under Section 167 of the Code of Criminal Procedure cannot be extended by seeking to file supplementary charge sheet qua UAPA offences.

The Court while granting default bail to Fakhrey Alam, a person accused under Section 18 of the UAPA Act, reiterated that default bail under first proviso of Section 167(2) of the Cr.P.C. is a fundamental right and not merely a statutory right.

21. "Insurer Should Deposit Award In Bank Account Maintained By MACT By RTGS/NEFT": SC Issues Directions For Uniform Procedure In Granting Motor Accident Compensation

[Case: [Bajaj Allianz General Insurance Company Private Ltd. v. Union of India](#); Citation: LL 2021 SC 166]

A bench comprising Justice SK Kaul and R Subhash Reddy issued a slew of directions regarding process of disbursement of compensation as well as expediting the matter before the MACTs across the country. According to these directions, jurisdictional police station has to submit an Accident Information Report about the accident to tribunal and insurer within first 48 hours either over email or a dedicated website. They shall also submit a detailed accident report to them within three months.

22. Courts Should Avoid Patriarchal & Stereotypical Notions About Women: Supreme Court Issues Guidelines For Dealing With Sexual Crimes

Case: [Aparna Bhat v. State of Madhya Pradesh](#); **Citation:** LL 2021 SC 168]

While setting aside the ["rakhi-for-bail" order of the Madhya Pradesh High Court](#), the Supreme Court issued a set of guidelines to be followed by Courts while dealing with sexual crimes.

The Supreme Court suggested that gender sensitization training should be imparted to Judges and public prosecutors.

The bench comprising **Justices AM Khanwilkar and S. Ravindra Bhat** also observed that each High Court should formulate a module on judicial sensitivity to sexual offences, to be tested in the Judicial Services Examination. It also directed the Bar Council of India to take steps to include such courses as part of LLB and AIBE syllabus.

23. SC Overrules 'NV International' Verdict Which Held Delay Beyond 120 Days For Arbitration Appeal Under Section 37 Can't Be Condoned

[Case: [Government of Maharashtra v. Borse Brothers Engineers and Contractors Pvt Ltd.](#); **Citation:** LL 2021 SC 170]

A two-judge bench comprising **Justices RF Nariman and S Ravindra Bhat** overruled its 2019 verdict in the case M/s NV International vs State of Assam which had strictly held that a delay of more than 120 days in filing of appeals under Section 37 of the Arbitration and Conciliation Act 1996 cannot be condoned.

The Top Court has now held that delay beyond 90, 60 or 30 days for filing appeals under Section 37, depending on the forum, can be condoned. But the Court added a rider that such condonation of delay should be an exception and not the norm, having regard to the objective of the Arbitration Act for expeditious settlement of claims.

Also Read: [Commercial Courts Act Does Not Exclude Application Of Section 5](#)

[Limitation Act: Supreme Court](#)

24. Supreme Court Bars Charging Compound Interest Or Penal Interest On Any Borrower During Loan Moratorium; Refuses Moratorium Extension

[Case: [Small Scale Industrial Manufactures Association\(Regd\) v. Union of India;](#)

Citation: LL 2021 SC 175]

A Bench of **Justices Ashok Bhushan, R Subhash Reddy** and **MR Shah** directed that there should be no charging of compound interest, interest on interest or penal interest on the instalments which were due during the loan moratorium period from March 1 to August 31 last year on any borrower, irrespective of the loan amount. If such interest has already been collected, it should be either refunded to the borrower or adjusted towards the next instalments.

It observed that there is no rationale in the Centre's policy to limit the benefit of waiver of compound interest only to certain loan categories less than Rs Two Crores. Last year, the Centre had taken a decision to allow waiver of interest on interest in eight specified categories for loans up to Rupees 2 crores.

The Court observed that there is no justification shown to restrict the relief of not charging interest on interest with respect to the loans up to Rs. 2 crores only and that too restricted to the aforesaid categories.

Also Read: [Compound Interest In Nature Of Penal Interest; No Justification For](#)

[Charging It Once RBI Has Allowed Loan Moratorium : SC](#)

Also Read: [Functions Of Ministries Don't Get Transferred To NDMA During National](#)

[Disaster: Supreme Court](#)



25. 'Structures Of Our Society Created By Males For Males': Supreme Court Holds Army's Evaluation Criteria To Grant Permanent Commission For Women Officers Arbitrary

[Case: [Lt. Col Nitisha & Ors. v. Union of India & Ors](#); Citation: LL 2021 SC 181]

A Division Bench comprising of **Justice DY Chandrachud** and **Justice MR Shah** declared that the evaluation criteria adopted by the Indian Army to consider the grant of permanent commission for women officers to be "arbitrary and irrational". The Court directed the Army to reconsider the pleas of women Short Service Commission officers for grant of PC within two months in accordance with the fresh directions issued by the Court.

The top court held that the evaluation criteria adopted by the Army to benchmark the women officers with the lowest credentials of their male counter-parts and to freeze their ACR evaluation at the 5th or 10th years of their services to be "arbitrary and irrational", causing women officers "systemic discrimination".

Also Read: ['Not Enough To Proudly Say Women Are Allowed To Serve Army When Their Service Conditions Tell A Different Story' : Supreme Court In Permanent Commission Case](#)

Also Read: [Permanent Commission For Women Army Officers- Indirect Discrimination Even Without Discriminatory Intent Must Be Prohibited: Supreme Court](#)

26. Call For Justice Not Hate Speech": Supreme Court Quashes FIR Against Journalist Patricia Mukhim

[Case: [Patricia Mukhim v. State of Meghalaya & Ors.](#); Citation: LL 2021 SC 182]

A bench comprising **Justices L. Nageswara** and **S. Ravindra Bhat** quashed a FIR registered against Shillong Times Editor Patricia Mukhim over a Facebook post on



violence against non-tribal people in Meghalaya. The Court noted that the Facebook post was directed against the apathy shown by the Chief Minister of Meghalaya, the Director General of Police and the Dorbar Shnong of the area in not taking any action against the culprits who attacked the non-tribals youngsters.

The Court allowed the appeal filed by Mukhim challenging the [Meghalaya High Court order](#) which had dismissed her plea to quash the FIR.

Also Read: [Free Speech Of Citizens Cannot Be Stifled By Implicating Them In Criminal Cases: Supreme Court](#)

27. Supreme Court Refuses To Stay Anonymous Electoral Bonds

[**Case:** [Association for Democratic Reforms v. Union of India & Ors.](#); **Citation:** LL 2021 SC 183]

The Supreme Court refused to stay the release of the fresh set of electoral bonds from April 1 for the assembly polls in West Bengal, Kerala, Tamil Nadu, Assam and Puducherry.

The Court dismissed the application filed by NGO Association for Democratic Reforms seeking stay of the bonds.

Since the bonds were allowed to be released in 2018, 2019 and 2020 without interruption, and sufficient safeguards are there, there is no justification to stay the electoral bonds at present, held a bench comprising CJI SA Bobde, Justice AS Bopanna and V Ramasubramanian,

Also Read : [Supreme Court's Refusal To Stay Electoral Bonds Undermines Transparency In Electoral Process\[Column\]](#)



28. Supreme Court Allows Tata Sons Appeal Against NCLAT Order To Reinstate Cyrus Mistry As Chairman

[**Case:** [Tata Sons Ltd v. Cyrus Mistry & Ors](#); **Citation:** LL 2021 SC 184]

In a big win for Tata Sons Ltd, the Supreme Court bench headed by **CJI SA Bobde** allowed its appeal against the order of the National Company Law Tribunal, which had ordered to reinstate the ousted Chairman Cyrus Mistry.

The Court held that the actions of Tata Sons board against Mistry did not amount to oppression of minority shareholders or mismanagement. The bench also said that it was open for Tatas and Mistry to work out their separation terms.

On December 18, 2019, The National Company Law Appellate Tribunal restored Cyrus Mistry as the Executive Chairman of Tata Group. Allowing Mistry's appeal, the Appellate Tribunal had set aside the judgment of Mumbai bench of National Company Law Tribunal (NCLT) that had upheld the appointment of N Chandrasekharan as Chairman in his place. The said NCLAT order was stayed by the Apex Court in January 2020 whereas the judgment was reserved on 17th December 2020.

Also Read: [Company Tribunal Not A Labour Court Or Administrative Tribunal To Focus Entirely On Removal Of Director : Supreme Court In Tata-Mistry Case](#)

April 2021

29. 'Right Not To Be Deported' Is Ancillary To A Fundamental Right Available Only To Indian Citizens: Supreme Court In Rohingya Case

[**Case:** [Mohammad Salimullah v. Union Of India](#); **Citation:** LL 2021 SC 202]

While rejecting a plea to stop the deportation of Rohingya refugees detained in Jammu, a bench comprising of then **CJI SA Bobde, Justices AS Bopanna and V.**



Ramasubramanian observed that the right not to be deported is ancillary to the fundamental right to reside or settle in any part of India guaranteed under Article 19(1) (e) of the Constitution.

It thus dismissed an interlocutory application filed seeking (i) the release of the detained Rohingya refugees; and (ii) a direction to the Union of India not to deport them. The Court however clarified that the Rohingyas in Jammu shall not be deported unless the procedure prescribed for such deportation is followed.

30. High Courts Shall Not Pass Order Of 'Not To Arrest' Or 'No Coercive Steps' While Dismissing/Disposing Petition U/s 482 CrPC: Supreme Court

[**Case:** M/s Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra; **Citation:** LL 2021 SC 211]

A bench comprising **Justices DY Chandrachud, MR Shah** and **Sanjiv Khanna** held that a High Court, while dismissing/disposing of the quashing petition under Section 482 CrPC and/or under Article 226 of the Constitution of India, shall not pass order of not to arrest and/or "*no coercive steps*" either during the investigation or till the investigation is completed and/or till the final report/chargesheet is filed under Section 173 CrPC.

It observed that when the investigation is in progress and the facts are hazy and the entire evidence/material is not before the High Court, the High Court should restrain itself from passing the interim order of not to arrest or "no coercive steps to be adopted" and the accused should be relegated to apply for anticipatory bail under Section 438 CrPC before the competent court.

32. Balance Sheets Entries Can Amount To Acknowledgement Of Debt U/s 18 Limitation Act: Supreme Court Sets Aside NCLAT Full Bench Ruling



[**Case:** [Asset Reconstruction Company \(India\) Limited v. Bishal Jaiswal](#); **Citation:** LL 2021 SC 215]

A bench comprising of **Justices RF Nariman, BR Gavai** and **Hrishikesh Roy** held that entries in balance sheets can amount to acknowledgement of debt for the purpose of extending limitation under Section 18 of the Limitation Act. It referred to an old Calcutta High Court decision in *Bengal Silk Mills Co. v. Ismail Golam Hossain Ariff*, AIR 1962 Cal 115, the bench observed.

33.'Amend Section 138 NI Act To Allow One Trial For Multiple Cases From Single Transaction' : Supreme Court Issues Directions For Expeditious Trial Of Cheque Cases

[**Case:** [In Re Expeditious Trial Of Cases Under Section 138 of N.I Act](#); **Citation:** LL 2021 SC 217]

A constitution bench of the Supreme Court issued a set of directions to expedite the trial of cheque dishonour cases under Section 138 of the Negotiable Instruments Act.

34. High Courts Are In A Crisis Situation': Supreme Court Lays Down Time Line For Appointment Of High Court Judges

[**Case:** [PLR Projects Ltd v. Mahanadi Coalfields Pvt Ltd](#); **Citation:** LL 2021 SC 223]

Expressing grave concerns at the mounting vacancies of High Court judges, a bench comprising of then **CJI SA Bobde, Justices Sanjay Kishan Kaul** and **Surya Kant** emphasized that the Central Government should proceed to make appointments *immediately* after the Supreme Court Collegium has cleared the names.

If the Government has any reservation over the Collegium recommendations, it should send back the names with specific reasons for reservations. Once the Supreme Co Collegium reiterates the names, the Centre should make the appointment within 3-4 weeks of such reiteratio

35. Supreme Court Asks High Courts To Adopt Draft Rules Of Criminal Practice Within 6 Months

[**Case:** [In Re To Issue Certain Guidelines Regarding Inadequacies and Deficiencies in Criminal Trial v. State of Andhra Pradesh](#); **Citation:** LL 2021 SC 224]

A bench comprising of then **CJI SA Bobde**, **Justices L Nageswara Rao** and **S Ravindra Bhat** directed the High Courts to [adopt the draft rules of criminal practice](#), which has been prepared by amici curiae Senior Advocates R Basant, Sidharth Luthra and Advocate K Paremswar, within a period of 6 months

36. 'Ad-Hoc Judges Not An Alternative To Regular Appointments': Supreme Court Passes Guidelines On Appointment Of Ad-Hoc Judges In HCs Under Article 224A

[**Case:** [Lok Prahari v. Union of India & Ors.](#); **Citation:** LL 2021 SC 225]

A bench comprising of then **CJI SA Bobde**, **Justices Sanjay Kishan Kaul** and **Surya Kant** passed a slew of guidelines regarding the appointment of ad-hoc judges in High Courts under Article 224A of the Constitution, to tackle the problem of mounting case arrears in High Courts.

37. Section 3(2)(v) of SC/ST Act Will Attract As Long As Caste Identity Is One Of The Grounds For The Occurrence Of Offence: SC Doubts Earlier Judgments

[**Case:** [Patan Jamal Vali v. State of Andhra Pradesh](#); **Citation:** LL 2021 SC 231]

A bench comprising **Justices DY Chandrachud** and **MR Shah** doubted the earlier judgments which interpreted Section 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, to mean that the offence should have been committed "only on the ground that the victim was a member of the Scheduled Caste".



It observed that this provision will attract as long as caste identity is one of the grounds for the occurrence of the offence. To deny the protection of Section 3 (2) (v) on the premise that the crime was not committed against an SC & ST person solely on the ground of their caste identity is to deny how social inequalities function in a cumulative fashion, the court said.

38. Supreme Court Directs High Courts To Reconsider And Update Rules Relating To Execution Of Decrees

[Case: [Rahul S Shah v. Jinendra Kumar Gandhi](#); Citation: LL 2021 SC 232]

A bench comprising former **CJI SA Bobde, Justices L. Nageswara Rao and S. Ravindra Bhat** directed the High Courts to reconsider and update all the Rules relating to Execution of Decrees, made under exercise of its powers under Article 227 of the Constitution of India and Section 122 of CPC, within one year.

May 2021

39. State Regulation Of Profiteering By Schools Does Not Violate Managements' Fundamental Rights Under Article 19(1)(g) : Supreme Court

[Case: [Indian School, Jodhpur v. State Of Rajasthan](#); Citation: LL 2021 SC 240]

The Supreme Court has held that State's regulation of profiteering by education institutions cannot be held to be violating the managements' fundamental right to trade and profession under Article 19(1)(g) of the Constitution.

A bench comprising **Justice AM Khanwilkar and Dinesh Maheshwari** held so while upholding the constitutional validity of the **Rajasthan Schools (Regulation of Fee) Act, 2016**.

Also Read: [State Regulation Of Profiteering By Schools Does Not Violate Managements' Fundamental Rights Under Article 19\(1\)\(g\): Supreme Court](#)



Also Read: [Supreme Court Directs Rajasthan Private Schools To Give 15% Deduction In Annual School Fees; No Student To Be Debarred For Non-Payment Of Fees](#)

Also Read: [Authorities Under Disaster Management Act Cannot Alter Fee Structure Of Private Schools: Supreme Court](#)

40. "Encroachment Of State Legislature Upon The Domain Of Parliament": Supreme Court Strikes Down West Bengal Housing Industry Regulation Act

[Case: [Forum for People's Collective Efforts v. State of West Bengal](#); Citation: LL 2021 SC 241]

A bench of **Justices DY Chandrachud** and **MR Shah** struck down the West Bengal Housing Industry Regulation Act, 2017, holding it to be unconstitutional in view of the 2017 Real Estate (Regulation and Development) Act which is the central legislation on the identical subject-matter. However, with a view to prevent any chaos in the real estate industry in the state, the Court in exercise of its powers under Article 142, clarified that all sanctions and registrations previously granted under the HIRA prior to the date of this judgment shall continue to prevail

Also Read: [Concept Of Repugnancy Under Article 254 : Supreme Court Explains](#)

41. Supreme Court Strikes Down Maratha Quota; Says No Exceptional Circumstance To Grant Reservation In Excess Of 50% Ceiling Limit

[Case: [Dr Jaishree Laxmanrao Patil v. Chief Minister](#); Citation: LL 2021 SC 243]

A Constitution Bench of the Supreme Court comprising **Justices Ashok Bhushan, L. Nageswara Rao, S. Abdul Nazeer, Hemant Gupta** and **S. Ravindra Bhat** has struck down the Maratha quota in excess of 50% ceiling limit as unconstitutional. The Court unanimously held that there were no exceptional circumstances justifying the grant of reservation to Marathas in excess of 50% ceiling limit as a Socially and Economically

Backward Class. The Court has held by 3:2 majority that the 102nd Constitution Amendment has abrogated the power of states to identify "Socially and Educationally Backward Classes (SEBCs)".

The majority judgment held that after the introduction of Articles 338B and 342A to the Constitution *"the final say in regard to inclusion or exclusion (or modification of lists) of SEBCs is firstly with the President, and thereafter, in case of modification or exclusion from the lists initially published, with the Parliament"*.

The Court also held that alteration of the content of state legislative power in an oblique and peripheral manner would not constitute a violation of the concept of federalism or basic structure of the Constitution.

Also Read: [States Have No Power To 'Identify' Socially & Educationally Backward Classes After 102nd Constitution Amendment : Supreme Court Holds By 3:2 Majority](#)

Also Read: ['To Change 50% Reservation Limit Is To Have A Society Which Is Not Founded On Equality But Based On Caste Rule': SC Refuses To Revisit Indra Sawhney Judgment](#)

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Also Read: [Parliamentary Committee, Minister & AG Said 102nd Constitutional Amendment Won't Affect States' Power To Identify SEBCs; Supreme Court Holds Otherwise](#)

42. 'Citizens Have Right To Know What Transpires In Judicial Proceedings': Supreme Court Upholds Media's Freedom To Report Court Hearings



[Case: [Election Commission of India v. MR Vijaya Bhaskar](#); Citation: LL 2021 SC 244]

A bench comprising **Justices DY Chandrachud** and **MR Shah** upheld the freedom of media to report the oral observations and discussions made by judges and lawyers during a court proceeding. It held that freedom of speech and expression under Article 19(1)(a) extends to reporting judicial proceedings as well. *"The concept of an open court requires that information relating to a court proceeding must be available in the public domain. Citizens have a right to know about what transpires in the course of judicial proceedings"*, it observed.

The bench was delivering its judgment in a petition filed by the Election Commission of India seeking to restrain media from reporting oral remarks made by judges, after the Madras High Court orally said that the ECI "should probably be booked for murder" for being "singularly responsible for COVID second wave" by allowing election rallies.

Also Read: [No Question Of Expunging Judges' Oral Remarks Which Are Not Part Of Judicial Record: Supreme Court In ECI Case](#)

Also Read: [Real Time Reporting Of Court Hearing In Social Media Not A Cause Of Apprehension; A Virtual Extension Of 'Open Court': Supreme Court](#)

Also Read: [Unless Live-streaming Sees Light Of The Day, Absence Of Records Of Oral Proceedings Would Continue To Bedevil The System: Supreme Court](#)

43. Supreme Court Constitutes National Task Force To Formulate Methodology For Scientific Allocation Of Medical Oxygen To States, UTs

[Case: [Union of India v. Rakesh Malhotra](#); Citation: LL 2021 SC 250]

A division bench comprising of **Justices DY Chandrachud** and **MR Shah** constituted a 12-member National Task Force to formulate a methodology for scientific allocation of liquid medical oxygen to all the States and Union Territories in order to deal with the

dearth of oxygen supply amid the second Covid wave. The Task Force which will be at liberty to draw upon the human resources of the Union Government for consultation and information and may also constitute one or more sub-groups on specialised areas or regions for assisting it, before finalising its recommendations.

The Court constituted the task force after noting deficiencies in the Centre's formula for oxygen allocation, which is based on hospital-beds in a state. The Court had earlier flagged that this formula required a re-look as it did not take into account individuals who may not have secured hospital admission, but are in need of oxygen support.

44. IBC - Approval Of Resolution Plan Does Not By Itself Discharge Liabilities Of Personal Guarantor Of Corporate Debtor: Supreme Court

[**Case:** Lalit Kumar Jain vs. Insolvency and Bankruptcy Board of India; **Citation:** LL 2021 SC 257]

A Bench comprising **Justices L. Nageswara Rao** and **S. Ravindra Bhat** held that the approval of a resolution plan does not ipso facto discharge a personal guarantor of a corporate debtor. The release or discharge of a principal borrower from the debt owed by it to its creditor, by an involuntary process, i.e. by operation of law, or due to liquidation or insolvency proceeding, does not absolve the surety/guarantor of his or her liability, which arises out of an independent contract, the Court observed in the judgment in which it upheld the provisions of Insolvency and Bankruptcy Code, 2016 which applies to personal guarantors of corporate debtors.

It referred to recent judgments in State Bank of India v. V. Ramakrishnan, Committee of Creditors of Essar Steel (I) Ltd. v. Satish Kumar Gupta, and observed that the sanction of a resolution plan and finality imparted to it by Section 31 does not per se operate as a discharge of the guarantor's liability. It said that an involuntary act of the

principal debtor leading to loss of security, would not absolve a guarantor of its liability.

Also Read: Supreme Court Upholds IBC Provisions Applicable To Personal Guarantors Of Corporate Debtors

45. Phrase "Soon Before" Section 304B IPC Cannot Mean 'Immediately Before': Supreme Court Issues Guidelines For Trial In Dowry Death Cases

[Case: Gurmeet Singh v. State of Punjab; Citation: LL 2021 SC 262]

A Bench of **CJI NV Ramana** and **Justice Aniruddha Bose** observed that the phrase "soon before" as appearing in Section 304-B of the Indian Penal Code cannot be construed to mean 'immediately before'. The prosecution must establish existence of "proximate and live link" between the dowry death and cruelty or harassment for dowry demand by the husband or his relatives. It also observed that Section 304B, IPC does not take a pigeonhole approach in categorizing death as homicidal or suicidal or accidental.

The bench observed thus while dismissing the appeal filed by accused who were convicted under Section 304B IPC. Section 304B (1) provides that 'dowry death' is where death of a woman is caused by burning or bodily injuries or occurs otherwise than under normal circumstances, within seven years of marriage, and it is shown that soon before her death, she was subjected to cruelty or harassment by her husband or any relative of her husband, in connection with demand for dowry.

46. Centre's Policy Of Paid Vaccination For 18-44 Years Prima Facie Arbitrary & Irrational : Supreme Court

[Case: Re Distribution of Essential Supplies and Services During Pandemic; Citation: LL 2021 SC 263]



The Supreme Court has made a prima facie observation that the Centre's vaccination policy, which does not provide free vaccination for those in the age-group of 18 to 44 years, as "arbitrary and irrational" and asked the Centre to revisit the same.

Also Read: [How Rs 35000 Crores Budget Allocation Spent For Vaccines? Why Can't It Be Used To Vaccinate 18-44 Years Group? SC Asks Centre](#)

Also Read: ['Digital Divide Will Have Serious Implications On Right To Equality & Health': Supreme Court On CoWIN Portal](#)

Also Read: [Constitution Doesn't Envisage Courts To Be Silent Spectators When Executive Policies Infringe Citizens' Rights : SC In COVID Vaccine Case](#)

June 2021

47. 'Name Is An Intrinsic Element Of Identity': Supreme Court Issues Guidelines For Recording Corrections & Changes In CBSE Certificates

[Case: [Jigyada Yadav v. C.B.S.E.](#); Citation: LL 2021 SC 264]

A Bench comprising **Justices AM Khanwilkar, BR Gavai** and **Krishna Murari** issued guidelines for the Central Board of Secondary Education to process the applications for correction or change in the certificates issued by it. The Court also directed CBSE to take immediate steps to amend its Byelaws so as to incorporate these guidelines for recording correction or change in the certificates already issued or to be issued by it.

48. Every Journalist Entitled To Protection Of Kedar Nath Judgment': Supreme Court Quashes Sedition Case Against Journalist Vinod Dua

[Case: [Vinod Dua v. Union of India](#); Citation: LL 2021 SC 266]

A bench of **Justices UU Lalit** and **Vineet Saran** while quashing the FIR against senior journalist Vinod Dua for sedition observed, "*Every Journalist will be entitled to protection in terms of Kedar Nath Singh , as every prosecution under Sections 124A*

and 505 of the IPC must be in strict conformity with the scope and ambit of said Sections as explained in, and completely in tune with the law laid down in Kedar Nath Singh." In the case of **Kedar Nath Singh v. State of Bihar(1962)**, the Supreme Court had read down Section 124A IPC and held that the application of the provision should be limited to "acts involving intention or tendency to create disorder, or disturbance of law and order; or incitement to violence".

49. Stop Illegal Adoption Of Children Orphaned By COVID; Public Advertisements For Adoptions Unlawful: Supreme Court

[Case: [In Re Contagion of COVID Virus In Children Protection Homes](#); Citation: LL 2021 SC 268]

A bench comprising **Justices L. Nageswara Rao** and **Aniruddha Bose** in the *suo moto* case initiated by the Court to deal with the problems of children affected by COVID observed "*No adoption of affected children should be permitted contrary to the provisions of the JJ Act, 2015. Invitation to persons for adoption of orphans is contrary to law as no adoption of a child can be permitted without the involvement of CARA. Stringent action shall be taken by the State Governments/Union Territories against agencies/individuals who are responsible for indulging in this illegal activity.*" The Court also directed the State governments and Union Territories to prevent any NGO from collecting funds in the names of the affected children by disclosing their identity and inviting interested persons to adopt them.

Wide publicity should be given to the provisions of the JJ Act, 2015 and the prevailing schemes of the Union of India and the State Governments/Union Territories which would benefit the affected children, the Court added.

50. Persons With Disabilities Have Right To Reservation In Promotions: Supreme Court

[Case: [State of Kerala v. Leesamma Joseph](#); Citation: LL 2021 SC 273]

A Division bench comprising **Justices Sanjay Kishan Kaul** and **R Subhash Reddy** held that persons with physical disabilities have right to reservation in promotions also. It held so while dismissing an appeal filed by the State of Kerala against a [judgment of the Kerala High Court](#) (State of Kerala v. Leesamma Joseph). Further, the Apex Court directed the Kerala Government to implement reservation in promotion for disabled within 3 months.

51. States Must Implement 'One Nation, One Ration Card' Scheme By July 31; Run Community Kitchens For Migrants

[**Case:** [Re: Problems and Miseries of Migrant Labourers](#) ; **Citation:** LL 2021 SC 274]

A Division bench comprising **Justices Ashok Bhushan** and **MR Shah** directed that all states must implement the "one nation, one ration card" scheme - which enables migrant workers to avail ration benefits from any part of the country - by July 31. It also passed a slew of other directions for the benefit and welfare of migrant workers. The Central government was directed to develop a portal in consultation with the National Informatics Centre (NIC) for registration of the unorganized labourers/migrant workers. Accordingly, all States and Union territories were ordered to complete the process of establishment of the portal and registration under National Data Base for Unorganised Workers (NDUW Project) by not later than July 31. Further, the Central Government, Department of Food and Public Distribution (Ministry of Consumer Affairs, Food and Public Distribution) was also directed to allocate and distribute food grains as per the demand of additional food-grains from the States for migrant labourers.

The Central Government was also ordered to undertake exercise under Section 9 of the National Food Security Act, 2013 to re-determine the total number of persons to be covered under the Rural and Urban areas of the State. In order to ensure that

migrant labourers have access to food, the Bench also ordered the Central and State governments to oversee the functioning of community kitchens.

52.COVID Victims Entitled to Ex-Gratia Compensation; Supreme Court Directs NDMA To Frame Guidelines Within 6 Weeks

[Case: [Reepak Kansal v. Union of India](#); Citation: LL 2021 SC 277]

A Bench comprising **Justices Ashok Bhushan** and **MR Shah** held that Section 12 of the Disaster Management Act casts a statutory obligation on the part of the National Disaster Management Authority (NDMA) to recommend minimum relief for the victims of a national disaster. Such minimum relief will also include 'ex-gratia assistance' as per Section 12(iii) of the Act. Further, it observed, "*No country or state has unlimited resources. Dispensation of the same is based on a number of circumstances and facts. Therefore, we don't think it is proper to direct the Union to pay a particular amount. This is to be fixed by the government. Ultimately, the priorities are also to be fixed by the government*"

Accordingly, the Apex Court directed the NDMA to come up with guidelines for giving ex-gratia compensation to the family members of persons who died due to COVID 19. The Court also directed that simplified guidelines be framed for issuance of death certificates/ official documents stating the exact cause of death - that is death due to COVID.

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