

INDEX

LAW PAPERS FOR BA LL.B. (HONS.) & BBA LL.B. (HONS.) SEMESTER-III & IV

S.No	Contents	Page No
1.	Semester III 1. Family Law-I 2. Criminal Law-I 3. Law of Property	1-18
	Semester IV 1. Family Law-II 2. Criminal Law-II 3. Law of Evidence	19-36



FIVE-YEAR INTEGRATED LAW COURSE
BA LL.B. (Hons.) and BBA LL.B. (Hons.)

Semester III

Family Law – I

FACULTY OF LAW
UNIVERSITY OF DELHI

(For private use only in the course of instruction)

Semester- III

Course Name- Family Law-I

Course Objectives:

1. To create awareness and educate the students about rights and duties of members of family towards each other, with special reference to spousal relationship.
2. To give overview to the students and enhance their understanding on the current laws on marriage, divorce, maintenance, adoption and guardianship.
3. To give practical exposure to students by field visit of Family Courts, Mediation and Conciliation Centres etc.

Course Learning Outcomes:

1. Students will be able to practice in Law Courts as a specialized Matrimonial Lawyer.
2. Students will be able to join Research Houses, especially on issues relating to women and children at domestic and international level.

Unit I: Marriage under Hindu Law

Concept of marriage in general: Nature of Hindu Marriage; Applicability of Legislation (Section 2 of HMA, 1955); Conditions for the validity of marriage (sections 3 and 5 of HMA, 1955); Solemnisation of marriage with special reference to live in relationship (section 7 of HMA, 1955 r/w Section 114 Indian Evidence Act); Registration of Marriage (section 8 of HMA, 1955); Void marriages (sections 11 r/w 17, 18 of HMA, 1955 r/w section 494 and 495 IPC); Voidable marriage (section 12).

Case:

- 01 *Dr. Surajmani Stella Kujur v. Durga Charan Hansdah*, AIR 2001 SC 938
- 02 *S. Nagalingam v. Sivagami* (2001) 7 SCC 487
- 03 *Bhaurao Shankar Lokhande v. State of Maharashtra*, AIR 1965 SC 1564
- 04 *Lily Thomas v. Union of India*, AIR 2000 SC 1650
- 05 *Asha Qureshi v. Afaq Qureshi*, AIR 2002 MP 263
- 06 *Court On Its Own Motion Lajja ... vs State*, 2012 (193) DLT 61
- 07 *P. v. K.*, AIR 1982 Bom. 400
- 08 *Seema v. Ashwani Kumar*, (2006) 2 SCC 578
- 09 *Binod Kumar Singh v. Union of India*, 2019 SCC OnLine Pat 2363

Unit II: Matrimonial Remedies under Hindu Law

Restitution of Conjugal Rights (Section 9 of HMA, 1955); Judicial Separation [section 10 and 13 (IA) of HMA, 1955]; Divorce [sections 13(1), (2), 13 (1A), 13 A, 13B of HMA, 1955]

(a) Theories of Divorce (b) Grounds of Divorce with particular emphasis on Cruelty, Desertion, Option of Puberty, Mutual Consent, Irretrievable Breakdown of Marriage: Seventy-first Report of Law Commission of India; Marriage Laws Amendment Bill 2013.

Cases:

01. *Kailashwati v. Ayodhia Parkash*, 1977 C.L.J. 109 (P.& H.)
02. *Swaraj Garg v. K.M. Garg*, AIR 1978 Del. 296
03. *Saroj Rani v. Sudarshan Kumar*, AIR 1984 SC 1562
04. *N.G. Dastane v. S. Dastane*, AIR 1975 SC 1534
05. *Samar Ghosh v. Jaya Ghosh*, 2007 (3) SCJ 253
06. *Bipinchandra Jaisinghbai Shah v. Prabhavati*, AIR 1957 SC 176
07. *Dharmendra Kumar v. Usha Kumar*, AIR 1977 SC 2213
08. *T. Srinivasan v. T. Varalakshmi*, 1 (1991) DMC 20 (Mad.)
09. *Hirachand Srinivas Managaonkar v. Sunanda*, AIR 2001 SC 1285
10. *Sureshta Devi v. Om Prakash*, 1 (1991) DMC 313 (SC)
11. *Amardeep Singh v. Harveen Kaur* AIR 2017 SC 4417

Unit III: Maintenance under Hindu Law

The Hindu Marriage Act, 1955, sections 24 and 25; The Hindu Adoptions and Maintenance Act, 1956, section 18; The Criminal Procedure Code, 1973, section 125; Protection of Women from Domestic Violence Act, 2005.

Cases:

01. *D.Velusamy v. D.Patchaiammal* (2010) 10 SCC 469
Badshah v. Sou. Urmila Badshah Godse & Anr(2014)1SCC188
Sanjivani Ramchandra Kondalkar v. Ramchandra Bimrao Kondalkar,
2019 SCC OnLine Bom 6581
02. *Sanjay Damodar Kale v. Kalyani Sanjay Kale*, 2020 SCC OnLine Bom 694

Unit IV: Adoption(Read With CARA Guidelines 2017)

The Hindu Adoptions and Maintenance Act, 1956

Cases:

01. *Brijendra v. State of M.P.*, AIR 2008 SC 1058
02. *In Re: Adoption of Payal at Sharinee Vinay Pathak and his wife Sonika Sahay Pathak*, 2010 (1) Bom CR 434
03. *Manju Sharma v. Vipin*, MANU/DE/2061/2019

Unit V: Minority and Guardianship under Hindu Law

The Hindu Minority and Guardianship Act, 1956

Case:

01. *Githa Hariharan v. Reserve Bank of India* (1999) 2 SCC 228

Unit VI: Sources and Schools of Muslim

Law Unit VII: Marriage under Muslim law

Nikah - Solemnisation of Marriage – conditions for validity, classification and types; Dower

Cases:

01. *Ms. Ghulam Kubra Bibi v. Mohd. Shafi Mohd. Din*, AIR 1940 Pesh.
02. *Chand Patel v. Bismillah Begum*, 1 (2008) DMC 588 (SC)

Unit VIII: Divorce under Muslim law

Extra-judicial - Talaq, Khula, Mubarat (b) Judicial - The Dissolution of Muslim Marriages Act, 1939

Cases:

- 01 *Shamim Ara v. State of U.P.*, 2002 Cr LJ 4726 (SC)
- 02 *Masroor Ahmed v. Delhi* (NCT) 2008 (103) DRJ 137 (Del.)
- 03 *Ghulam Sakina v. Falak Sher Allah Baksh*, AIR 1950 Lah. 45
- 04 *A. Yousuf Rawther v. Sowramma*, AIR 1971 Ker. 261
- 05 *Itwari v. Asghari*, AIR 1960 All. 684
- 06 *Shayara Bano v. UOI*, SC, decided on 22 August, 2017

Unit IX: Maintenance under Muslim law

Cases:

01. *Danial Latifi v. Union of India* (2001) 7 SCC 740
02. *Rana Nahid and Ors. v. Sahidul Haq*, MANU/SC/0487/2020

Suggested Readings:

Prescribed Legislations:

1. The Family Court Act, 1984
2. The Hindu Marriage Act, 1955
3. Prohibition of Child Marriages Act, 2006
4. Protection of Women from Domestic Violence Act, 2005.
5. The Hindu Adoptions and Maintenance Act, 1956
6. The Hindu Minority and Guardianship Act, 1956
7. The Muslim Personal Law (Shariat) Application Act, 1937
8. The Dissolution of Muslim Marriages Act, 1939
9. The Muslim Woman (Protection of Rights on Divorce) Act, 1986
10. The Muslim Women (Protection of Rights on Marriage) Act, 2019

Prescribed Books:

1. Ranganath Misra (Rev.), *Mayne's Treatise on Hindu Law & Usage*
2. Satyajeet A. Desai, *Mulla's Principles of Hindu Law*
3. Paras Diwan, *Law of Marriage and Divorce*
4. M. Hidayatulla and Arshad Hidayatulla, *Mulla's Principles of Mohomedan Law*
5. Tahir Mahmood, *Fyzee's Outlines of Muhammedan Law*

FIVE-YEAR INTEGRATED LAW COURSE

BA LL.B. (Hons.) and BBA LL.B. (Hons.)

III Semester

Law of Crimes - I

**FACULTY OF LAW
UNIVERSITY OF DELHI**

Course Name: Law of Crimes-I: Bharatiya Nyaya Sanhita, 2023

Course Credits: 4

Course Objectives:

The primary objectives of this course are

- To familiarize the students with the key concepts regarding crime and general principles of Criminal Liability.
- To expose the students to the range of mental states that constitute the mental element *mensrea* essential to constitute criminal behavior and the grounds that provide exemption from criminal liability.
- To educate the students about the shift of orientation in Bhartiya Criminal justice system from punishments towards *Nyaya* and introduction of the community service as a form of punishment.
- To teach students about acts that amount to specific offences under the Bhartiya Nyaya Sanhita along with the latest legislative and judicial developments in the field of Criminal Law.

Course Learning Outcomes:

Upon successful completion of this course, the students shall gain the competence to

1. Identify the elements of a crime and distinguish between behaviours that entail civil or criminal liability
2. Be familiar with the range of specific offences provided under the Bharatiya Nyaya Sanhita, 2023
3. Assess and analyze the statutory provisions in the light of settled legal principles

Prescribed Legislation:

- Bharatiya Nyaya Sanhita, 2023

Prescribed Books:

- R.C. Nigam, *Law of Crimes in India* (Asia Publishing House, Vol I, 1965)
- Deswal Vageshwari & Kansal Saurabh, *Bharatiya Nyaya Sanhita, 2023 Law and Practice* (Taxmann, New Delhi, 2024)
- Misra, S.N. *The Indian Penal Code*. (Eastern Book Company, Lucknow, 2012)
- RatanLal & DhirajLal, *Indian Penal Code*, (Lexis Nexis XXXII ed. 2013)
- K.D. Gaur, *Criminal Law: Cases and Materials*, (Butterworths: VIII ed., 2015)
- K.N.C. Pillai & Shabistan Aquil (Rev.), *Essays on the Indian Penal Code* (The Indian Law Institute, New Delhi, 2005)
- Gour, Hari Singh, *Commentaries on Penal Law of India*. In 4 vol.(Allahabad Law Publishers, X ed, 2014))

COURSE CONTENTS
General Principles of Criminal Liability (Units 1-4)
Specific Crimes (Unit 5-10)

Unit 1

Elements of Crime

- Distinction between Civil and Criminal liability
- Principle of *Mens rea* and Strict liability
- Types of Punishments prescribed under BNS, 2023 (S. 4-13)
- Retention of Death Penalty and Introduction of Community Service

Case Laws

- State of Maharashtra v. Mayer Hans George, AIR 1965 SC 722
- State of MP v. Narayan Singh, (1989) 3SCC 596
- Machhi Singh and Others v. State of Punjab, AIR 1983 SC 957

Unit 2

General Exceptions (S. 22, 23, 24, 34-44)

- Unsoundness of Mind
- Intoxication
- Private Defence

Case Laws

- Basdev v. State of PEPSU AIR 1956 SC 488
- Srikant Anandrao Bhosale v. State of Maharashtra (2003) 7 SCC 748
- Deo Narain v. State of UP AIR 1973 SC 473
- James Martin v. State of Kerala (2004) 2 SCC 203

Unit 3

Inchoate Crimes (S. 45-62, 107-109, 226)

- Abetment
- Criminal Conspiracy
- Attempt

Case Laws

- Satvir Singh v. State of Punjab AIR 2001 SC 2828
- State of Tamil Nadu v. Nalini and 25 others (AIR 1999 SC 2649)

- State of Maharashtra v. Mod. Yakub (1980)3 SCC 57
- Gian Kaur v. State of Punjab (1996) 2 SCC 648

Unit 4

Joint Liability and Group Liability

- Common Intention [S. 3(5)(6)(7)(8)(9)]
- Common object, Unlawful Assembly (S. 189)

Case Laws

- Suresh v. State of UP (2001) 3 SCC 673
- Maina Singh v. State of Rajasthan (1976) 2 SCC 827

Unit 5

Offences against Woman

- Sexual Offences (S. 63-73)
- Of Criminal force and Assault against Woman (S.74-79)
- Offences relating to marriage (S. 80-87)

Case Laws

- Kanwar Pal Singh Gill v. State (Adm., U.T. Chandigarh) through Secy., (2005) 6 SCC 161
- State of Punjab v. Gurmit Singh, (1996) 2 SCC 384
- Independent Thought v. Union of India (2017) 10 SCC 800
- Social Action Forum for Manav Adhikar and Another v. Union Of India and Ors. Minstry Law and Justice and others AIR 2018, SC 4273

Unit 6

Offences affecting Human Body (Part 1)

Offences affecting Life (S. 100-105)

- Culpable Homicide
- Murder

Case Laws

- Rawalpenta Venkalu v. State of Hyderabad, AIR 1956 SC 171
- Palani Goundan v. Emperor, 1919 ILR 547
- *In re* Thavamani, AIR 1943 Mad 571
- Emperor v. Mushnoorunarayna Murthy (1912) 22 MLJR 333 Mad
- Virsa Singh v. State of Punjab, AIR 1958 SC 465

- State of A P v. R, Punnayya, AIR 1977 SC 45
- Emperor v. Dhirajia, AIR 1940 All. 486
- Gyarsibai v. The State AIR 1953 M.B. 61
- KM Nanavati v. State of Maharashtra AIR 1962 SC 605
- Ghapoo Yadav v. State of MP (2003) 3 SCC 528

Unit 7

Offences affecting Human Body (Part II)

Offences affecting Life (S. 106, 11, 112, 113)

- Causing Death by Negligence
- Organised Crime
- Petty Organised Crime
- Terrorist Act

Case Laws

- Cherubin Gregory v. State of Bihar AIR 1964 SC 205
- SN Hussain v. State of Andhra Pradesh, AIR 1972 SC 685

Unit 8

Specific Crimes against Children, Human Body and the State (S. 137, 138, 143, 95, 98, 99, 152)

- Kidnapping
- Abduction
- Trafficking
- Hiring/ employing/ engaging a child to commit an offence
- Selling/buying child for purpose of prostitution, etc.
- Act endangering Sovereignty, Unity and Integrity of India

Case Laws

- S. Vardarajan v. State of Madras, AIR 1965 SC 942
- Thakorlal D. Vadgama v. State of Gujarat AIR 1973 SC 2313
- Vinod Dua v. Union Of India AIR 2021 SC 3239

Unit 9

Offences against Property (Part-1)

(S. 2 (21), 303-313)

- Theft
- Extortion
- Robbery
- Dacoity

Case Laws

- Pyare Lal Bhargava v. State of Rajasthan AIR 1963 SC 1094
- State of Karnataka v. Basavegowda (1997) Cr. L.J. 4386 (kant) 288

Unit 10

Offences against Property (Part-II)

(S. 314-316, 318, 319)

- Criminal Misappropriation of Property
- Criminal Breach of Trust
- Cheating

Case Laws

- Jaikrishandas Manohardas Desai v. State of Bombay, AIR 1960 SC 889
- Mahadeo Prasad v. State of West Bengal, AIR 1954 SC 724
- Akhil Kishore Ram v. Emperor, AIR 1938 Pat, 185



FIVE-YEAR INTEGRATED LAW COURSE

BA LL.B. (Hons.) and BBA LL.B. (Hons.)

III Semester

Law of Property

**FACULTY OF LAW
UNIVERSITY OF DELHI**

III Semester

Law of Property

Before the advent of the British, each community in India was governed by its respective customary law in matters relating to the transfer of property. With the establishment of the formal litigative system and in the absence of any legislation in this area, to begin with, the English judges applied the common law of England and the rules of equity, justice and good conscience with respect to disputes relating to transfer of property. The unsuitability of these provisions to the Indian conditions; the resulting conflict and the need for clarity of rules relating to this important branch of law necessitated the enactment of legislation. Drafted in 1870, the Transfer of Property Act saw the light of the day in 1882 and provided the basic principles for transfer of both movable and immovable properties. Based primarily on the English law of 'Real Property', it attempted to mould these principles to suit the Indian conditions; but certain provisions of the Act remained inapplicable to Hindus and Muslims, to start with. In order to put at rest the confusion created by the conflicting decisions and extend the application of the Act in totality to Hindus, the Transfer of Property Act, 1882 was amended in 1929. However, till date, the provisions of Chapter II of the Act that are inconsistent with the Quranic laws are inapplicable to Muslims. Moreover, a separate enactment titled the 'Sale of Goods Act, 1930' was passed to deal with the transfer of movable property by sale.

The Transfer of Property Act, 1882 contains the general principles of transfer of property and detailed rules with respect to specific transfer of immovable property by sale, exchange, mortgage, lease and gift. The present course will cover a study of important terms relevant to transfer of property, meaning of 'transfer' under the Act, general principles relating to transfer of property and definitions and rules relating to specific transfers of immovable properties by mortgage, lease and gift.

Prescribed Legislation:

The Transfer of Property Act, 1882.

Prescribed Books:

1. Poonam Pradhan Saxena (Rev.), Mulla's The Transfer of Property Act (11th ed. 2012)
2. Poonam Pradhan Saxena, 'Property and Easement', Halsbury Laws of India; Vol. 12 (2002).
3. Poonam Pradhan Saxena, Property Law (2nd ed. 2011)

4. Vepa. P. Sarathi (Rev.) G.C.V. Subba Rao's Law of Transfer of Property (3rd ed., 2002)
5. Sen Gupta (Rev.), Mitra's Transfer of Property Act (18th ed., 2004)
6. S.M. Lahiri, Transfer of Property Act (10th ed., 1986)

Topic 1 - Concept of Property: Section 3

1. Concept of Property
2. Definition of immovable Property
3. Distinction between Immovable and movable Property
4. Doctrine of fixture
5. Profits à prendre

1. Shantabai v. State of Bombay, AIR 1958 SC 532 : (1959) SCR 265
2. State of Orissa v. Titaghur Paper Mills Company Limited, AIR 1985 SC 1293 : (1985) Supp SCC 280
3. Bamdev Panigrahi v. Monorama Raj, AIR 1974 AP 226
4. Duncans Industries Ltd. v. State of U.P. (2000)1 SCC 633
5. Ananda Behera And Another v. The State Of Orissa And Another AIR 1956 SC 17

Topic 2 - Attestation (Section 3)

1. Significance of Attestation
2. Requisites of a Valid Attestation
3. Modes of attestation
4. Attestation by a Pardanashin woman

1. Kumar Harish Chandra Singh Deo v. Bansidhar Mohanty, AIR 1965 SC 1738, (1966) 1 SCR 153 42 M.L .
2. Abdul Jabbar Sahib v. H. Venkata Sastri, AIR 1969 SC 1147, (1969) 1 SCC 573
3. Padarath Halwai v. Ram Narain, AIR 1915 PC 21

Topic 4 - Meaning of Transfer of Property (Section 5)

1. Meaning of 'Transfer of Property' under the Act;
2. Concept of "transfer intervivos";
3. Living person distinguished from juristic person;
4. Status of partition of Joint Family Property

1. V.N. Sarin v. Ajit Kumar Poplai, AIR 1966 SC 432, (1966) 1 SCR 349
2. Kenneth Solomon v. Dan Singh Bawa, AIR 1986 Del 1
3. Mohar Singh v. Devi Charan, AIR 1988 SC 1365, (1988) 3 SCC 63
4. N. Ramaiah v. Nagaraj S, AIR 2001 Kant. 395

Topic 5 – Non-transferable Property: (Sections. 6(a) and 43)

1. Doctrine of spes successionis
 - (i) Chance of an heir apparent succeeding to an estate,
 - (ii) chance of relation of training a Legacy on the death of a kinsman
 - (iii) Any other mere possibility of a like nature.
2. Fraudulent or erroneous unauthorized transfers
3. Doctrine of “Feeding the grant by estoppel”; Bonafide transferee
 1. Jumma Masjid, Mercara v. Kodimaniandra Deviah, AIR 1962 SC 847
 2. Kartar Singh v. Harbans Kaur (1994) 4 SCC 730
 3. Shehammal v. Hasan Khani Rawther & Ors, AIR 2011 SC 3609.

Topic 6 - Conditional Transfer (Sections 10 and 11)

1. Condition restraining alienation
2. Types of restraints: Absolute Restraints, Partial Restraints
3. Exceptions to the restraints: Lease, Married Woman
4. Restriction Repugnant to interest created
5. Positive and Negative covenants
6. Difference between Section 10 and Section 11
 1. Rosher v. Rosher (1884) 26 Ch D 801
 2. Muhammad Raza v. Abbas Bandi Bibi, (1932) I.A. 236
 3. Manohar Shivram Swami v. Mahadeo Guruling Swamy, AIR 1988 Bom 116
 4. Zoroastrian Co-operative Housing Society Ltd. v. District Registrar, Co-op. Societies (Urban) (2005) 5 SCC 632
 5. K. Muniswamy v. K. Venkataswamy, AIR 2001 Kant. 246
 6. Tulk v. Moxhay (1848) 2 Ch. 774
 7. Sridhar v. N. Revanna on 11 February, AIR 2020 SUPREME COURT 82

Topic 7 - Transfer for the benefit of unborn persons (Sections 13-18)

1. Necessary Conditions for the Transfer for the benefit of unborn persons
 - a. Prior Life Interest
 - b. Only Absolute Interest may be transferred
2. Rule against perpetuity; Period of perpetuity; Rule of possible and actual events;
3. Transfer to a class; Transfer when prior interest fails; Directions for accumulation of income; Exceptions.

1. Ram Newaz v. Nankoo, AIR 1926 All 283
2. Ram Baran v. Ram Mohit, Hazra AIR 1967 SC 744, (1967) 1 SCR 293
3. R. Kempraj v. Burton Son & Co, AIR 1970 SC 1872, (1969) 2 SCC 594
4. F.M. Devaru Ganapati Bhat v. Prabhakar Ganapathi Bhat, AIR 2004 SUPREME COURT 2665

Topic 8 - Vested and Contingent interests (Sections. 19 and 21)

1. Definition of and distinction between vested and contingent interests
 1. Rajeh Kanta Roy v. Shanti Debi, AIR 1957 SC 255:1957 SCR 77

Topic 9 - Transfer during pendency of litigation (Section. 52)

1. Concept of "Lis Pendens",
2. Condition required for applicability of doctrine of Lis Pendens:
 - I. Meaning of proceedings
 - II. Commencement and conclusion of suits
 - III. Collusive suits
 - IV. Specific rights in specific immovable property
3. Voluntary and involuntary alienations
 1. Jayaram Mudaliar v. Ayyaswamy, AIR 1973 SC 569: (1972) 2 SCC 200
 2. Supreme General Films Exchange Ltd v. Maharaja Sir Brijnath Singhji Deo, AIR 1975 SC 1810 : (1975) 2 SCC 530
 3. Govinda Pillai Gopala Pillai v. Aiyappan Krishnan, AIR 1957 Ker. 10
 4. Sri Jagannath Mahaprabhu v. Pravat Chandra Chatterjee, AIR 1992 Ori. 47 154

5. Dalip Kaur v. Jeewan Ram, AIR 1996 P & H 158 159
6. Amit Kumar Shaw v. Farida Khatoon, (2005) 11 SCC 403

Topic 10 - Mortgage (Secs. 58-60, 100)

1. Mortgage: definition, Kinds and modes of execution of mortgages
 2. Redemption and Foreclosure of mortgages; Clog on equity of redemption;
 3. Distinction between mortgage and charge
-
1. Ganga Dhar v. Shankar Lal, AIR 1958 SC 770
 2. Pomal Kanji Govindji v. Vrajilal Karsandas Purohit, AIR 1989 SC 436 : (1989) 1 SCC 458
 3. Shivdev Singh v. Sucha Singh, AIR 2000 SC 1935 : 179 (2000) 4 SCC 326
 4. Sangar Gagu Dhula v. Shah Laxmiben Tejshi, AIR 2001 Guj. 329

Topic 11 – Exchange (Sections 118-121)

1. Doctrine of exchange
 2. Essentials of a valid Exchange:
 1. Mutual Transfer of Property
 2. Neither thing or both things, so exchanged can be money
 3. The manner is such as is prescribed by the Transfer of Property Act.
-
1. CIT, Hyderabad v. M/s. Motors and General stores, 1967, SCR(3)876.
 2. Ram Kristo Mandal and Anr. v. Dhankisto Mandal, AIR 1969 S.C. 204.

Topic 12 - Gift (Sections. 122-129)

1. Gift: Parties to a gift, Essential elements, Acceptance of a gift, Modes of execution of a gift.
 2. Suspension or revocation of gift
 3. Onerous gift
 4. Universal donee
-
1. Tila Bewa v. Mana Bewa, AIR 1962 Ori. 130 236
 2. Kartari v. Kewal Krishan, AIR 1972 HP 117 240
 3. Sridhar vs N. Revanna, AIR 2020 SC 824

Readings:

1. Alison Clarke and Paul Kohler, Property: Commentary & Materials, Cambridge University Press, 2005: **Chapter 2 & 3 (On Concept of Property)** (*Mandatory Reading*)
2. Samantha Hepburn, Principles of Property Law, Cavendish Publication 2001: **Chapter 1 (On Concept of Property)** (*Suggestive Reading*)
3. Jukka Gronow, 'John Locke, Adam Smith and Karl Marx's Critique of Private Property', Brill, 2016. (**On Concept of Property**) (*Suggestive Reading*)
4. John E. Cribbet et al., Property Cases and Materials, 9th Edition - Foundation Press, **Chapters 1-4 (On Concept of Property)** (*Mandatory Reading*)
5. Richard Gibbard, A Witness to History: Attesting Document in Lockdown, Field fisher, March 27, 2020 (Available at: <https://www.fieldfisher.com/en/insights/a-witness-to-history-attesting-documents-in-lockdown>)
6. Berg, Alan, 'Clogs on the Equity of Redemption – Or Chaining the Unruly Dog' (2002) Journal of Business Law 335
7. Jadon, Manvendra. (2017). Comparing The Incomparable: A Critical Analysis of The Classification of Property In 'Movable' Or 'Immovable' With Respect To The Indian Context And Resolving The Conundrum. (Available at https://www.researchgate.net/publication/345943383_Comparing_The_Incomparable_A_Critical_Analysis_Of_The_Classification_Of_Property_In_'Movable'_Or_'Immovable'_With_Respect_To_The_Indian_Context_And_Resolving_The_Conundrum)



FIVE-YEAR INTEGRATED LAW COURSE

BA LL.B. (Hons.) and BBA LL.B. (Hons.)

Semester IV

Family Law – II

**FACULTY OF LAW
UNIVERSITY OF DELHI**

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Semester IV

Family Law – II

(Hindu Law of Joint Family, Partition and Debts, Gifts and Wills, Muslim Law of Gifts & Wills, Hindu Succession Act and Muslim General Principles of Inheritance)

Hindu law has the most ancient pedigree of any known legal system. Where, not modified or abrogated by legislation, Hindu law may be described to be the ancient law of the Hindus rooted in the *Vedas* and enounced in the *Smritis* as explained and enlarged in recognized commentaries and digests and as supplemented and varied by approved usages. The concept of Hindu law is deeply rooted in Hindu philosophy and Hindu religion. Till this day, no precise definition of the word 'Hindu' is available in any statute or judicial pronouncement; it has defied all efforts at definition. There are two main schools of Hindu law; viz. the Mitakshara school and the Dayabhaga school or Bengal school. They have emerged in the era of Digests and Commentaries. The codified Hindu Law lays down uniform law for all Hindus. In the codified areas of Hindu Law, there is no scope for existence of schools. The schools of Hindu law have relevance only in respect of the un-codified areas of Hindu Law.

Prescribed Legislation:

The Hindu Succession Act, 1956 as amended by The Hindu Succession (Amendment) Act, 2005 (No.39 of 2005)

Prescribed Books:

1. Ranganath Misra, *Mayne's Treatise on Hindu Law & Usage* (17th ed., 2014)
2. Satyajeet A. Desai, *Mulla Principles of Hindu Law*, Vol. I & II (21ST ed., 2010)
3. Tahir Mahmood, *Principles of Hindu Law* (2014)
4. Poonam Pradhan Saxena, *Family Law Lectures, Family Law– II*, (3rd ed., 2011)
5. Paras Diwan and Peeyushi Diwan, *Modern Hindu Law* (23rd ed., 2016)
6. Duncan M. Derrett, *A Critique of Modern Hindu Law* (1970)
7. Mulla, *Principles of Mohomedan Law* (22nd ed., 2017)
7. Asaf A.A. Fyzee, *Outlines of Muhammadan Law* (5th ed. 2008)

PART - A : HINDU LAW OF JOINT FAMILY

Topic 1 : Joint Hindu Family and Hindu Coparcenary

The Mitakshara joint family is a unique contribution of Hindu law which has no parallel in any ancient or modern system of law. Whatever the skeptic may say about the future of the Hindu joint family, it has been, and still continues to be, the fundamental aspect of life of Hindus. In Hindu law, there is a presumption that every family is a joint Hindu family. The males in a joint Hindu family up to four generations from the last holder of the property are known as coparceners and they acquire a right by birth in the joint Hindu family property. This group of males is known as coparcenary. Hindu Succession (Amendment) Act 2005, confers on daughter the same status as that of a son as coparcener in Hindu joint family.

Kinds and Sources of property: Coparcenary and separate property, Gift from paternal ancestor and property inherited from maternal ancestor.

Karta -The position of karta in a joint Hindu family is *sui-generis*. Karta in a joint family occupies a very important position. His position is so unique that there is no office or institution in any other system of the world which is comparable with it. The Judicial Committee of the Privy Council in ***Hunoomanpersaud Pandayv. Mussumat Babooee Munraj Koonweree*** (1856) 6 Moore's I.A. 393 had discussed the extent of karta's power in relation to joint Hindu family property.

- (a) Concept of joint Hindu family and coparcenary under Mitakshara and Dayabhagalaw and their incidents.
 - (b) Karta-(i) Position (ii) Power
 - (c) Judicial and Legislative Trends- Position Before 2005
 - (d) Daughter as a Coparcener – Position After 2005
 - (e) Property in Hindu Law
1. *Commissioner of Income- Tax v. Gomedalli Lakshminarayan*, AIR 1935 Bom. 412
 2. *Moro Vishwanathv. Ganesh Vithal*(1873) 10 Bom. 444
 3. *Muhammad Husain Khan v. BabuKishva NandanSahai*, AIR 1937 PC 233
 4. *C.N. ArunachalaMudaliarv. C.A. MuruganathaMudaliar*, AIR 1953 SC 495
 5. *Smt. Dipov. Wassan Singh*, AIR 1983 SC 846
 6. *Commissioner of Wealth-Tax v. Chander Sen*, AIR 1986 SC 1753
 7. *M/s. Nopany Investments (P) Ltd. v. Santokh Singh (HUF)*, 2007 (13) JT 448
 8. *Mrs. Sujata Sharma v. Shri Manu Gupta* 226 (2016) DLT 647

Topic 2 : Alienation of Joint Hindu Family Property

Ordinarily, neither karta nor any other coparcener singly possesses full power of alienation over the joint family property or over his interest in the joint family property. It is now settled that karta can alienate the joint Hindu family property in exceptional circumstances, i.e. legal necessity and benefit of estate.

- (a) Alienation by karta - sale, mortgage, gifts and wills
- (b) Alienation by father
- (c) Alienee's rights duties and remedies

(d) Pious obligations of the son

9. *Hunoomanpersaud Panday v. Mussumat Babooee Munraj Koonweree* (1854-1857) 6 Moore's IA 393 (PC) 36
10. *Sunil Kumar v. Ram Prakash* (1988) 2 SCC 77
11. *DevKishan v. Ram Kishan*, AIR 2002 Raj. 370
12. *Balmukand v. Kamla Wati*, AIR 1964 SC 1385
- 13. Arshnoor Singh v. Harpal Kaur, Civil Appeal No. 5124 of 2019 (SC)**
14. *Guramma Bhratar Chanbasappa Deshmukh v. Mallappa Chanbasappa*, AIR 1964 SC 510
15. *R. Kuppayee v. Raja Gounder* (2004) 1 SCC 295
16. *Arvind & Abasaheb Ganesh Kulkarni v. Anna & Dhanpal Parisa Chougule*, AIR 1980 SC 645

Topic 3 : Partition

Partition means bringing the joint status to an end. On partition, the joint family ceases to be joint, and nuclear families or different joint families come into existence. There are members of the joint family who can ask for partition and are entitled to a share also. There is another category of the members of the joint family who have no right to partition but, if partition takes place, they are entitled to share. A reunion can be made only between the parties to partition.

- (a) What is partition
- (b) Subject matter of partition
- (c) Partition how effected
- (d) Persons who have a right to claim partition and who are entitled to a share
- (e) Rules relating to division of property

17. *A. Raghavammav. A. Chenchamma*, AIR 1964 SC 136
18. *Puttrangammav. M.S. Ranganna*, AIR 1968 SC 1018
19. *Kakumanu Pedasubhayyav. Kakumanu Akkamma*, AIR 1968 SC 1042

PART - B : THE HINDU SUCCESSION ACT, 1956

The law of inheritance comprises rules which govern devolution of property, on the death of a person, upon other persons solely on account of their relationship to the former. The Hindu Succession Act came into force on 17 June 1956. It amends and codifies the law relating to intestate succession among Hindus and brings about some fundamental and radical changes in the law of succession. The Act lays down a uniform and comprehensive system of inheritance and applies *inter alia* to persons governed by Mitakshara and Dayabhaga schools, as also to those in certain parts of southern India who were previously governed by the Murumakkattayam, Alyasanatana and Nambudri systems of Hindu law. The Act was last amended in 2005, and has brought in major changes in the classical concept of coparcenary as also in the class I heirs to the property of a male intestate.

Topic 4: General Introduction and the Application of the Hindu Succession Act, 1956

- (a) General principles of inheritance
- (b) Disqualifications of heirs
- 20 *Vellikannuv. R. Singaperumal*(2005) 6 SCC 622
- 21 *Nirmala v. Government of NCT of Delhi*, 170(2010) DLT 577
- 22 *Archna v. Dy. Director of Consolidation*
(High Court of Allahabad on 27.03.2015)
- 23 *Babu Ram v. Santokh Singh (deceased)*
through LRs, CIVIL APPEAL NO. 2553
OF 2019 (SC)
- 23. *Revanasiddappa v. Mallikarjun*, (2011) 11
SCC 1
- 24. *Ganduri Koteshwaramma and another*
v. Chakiri Yanadi and another
(2011) 9SCC 788179
- 26 *Prakash v. Phulavati*, 2015 SCC Online
SC 1114
- 27. *Danamma @ Suman Surpur v. Amar*
CIVIL APPEAL NOS. 188- 189 OF 2018
(SC)

Reading: Vineeta Sharma v. Rakesh

Sharma, CIVIL APPEAL Diary
No(s) . 32601/2018 (SC)

Topic 5 :Succession to the Property of Male Intestate

- (a) Mitakshara property
- (b) separate property
- 27. *Gurupad Khandappa*
Magdum v. Hirabai
Khandappa Magdum,
AIR 1978 SC 1239
- 28. *Uttam v. Saubhag Singh* (2016) 4 SCC
68209
- 29. *Radha Bai v. Ram Narayan*, CIVIL
APPEAL NO. 5889 OF 2009 (SC) 215
- 30. **Atma Singh v. Gurmej Kaur (D)**
and Others, Civil Appeal No. 11094

of 2017 (SC)226

Topic 6: Succession to the Property of
Female Intestate

31. *Bhagat Ram v. Teja Singh*, AIR 2002 SC 1
32. *Omprakashv. Radhacharan*, 2009(7) SCALE 51

Topic 7 :Hindu Women's estate

34. *VaddeboyinaTulasammav. VaddeboyinaSeshaReddi*, AIR 1977 SC 1944
35. *Jagannathan Pillai v. Kunjithapadam Pillai*, AIR 1987 SC 1493
36. *Jupudy Pardha Sarathy v. Pentapati Rama Krishna* (2016) 2 SCC 56253

PART – C : MUSLIM LAW

Topic 8 : Law Relating to Gifts

- (a) Meaning and essentials of a valid gift
- (b) Gift of Mushaa
- (c) Gift made during Marz-ul-Maut
37. *Mussa Miya walad Mahammed Shaffiv. Kadar Bax*, AIR 1928 PC 108 160
38. *Valia Peedikakkandi
KatheessaUmmav. Pathakkalan
Narayanath Kunhamu*, AIR 1964 SCC
275 165
39. *Hayatuddinv. Abdul Gani*, AIR 1976 Bom. 23 171
40. *Abdul Hafiz Beg v. Sahebbi*, AIR 1975 Bom. 165 178

Topic 9 : Law relating to Wills

- (a). Capacity to make Will
- (b). Subject matter of Will
- (c) To whom Will can be made
- (d). Abatement of legacies

Topic 10 : Law relating to Inheritance

- (a) General rules of inheritance of Sunnis and Shias
- (b) Classification of heirs
- (c) Entitlement of primary heirs

IMPORTANT NOTE:

1. The students are advised to read the books prescribed above along with Legislations and cases.
2. The topics and cases given above are not exhaustive. The teachers teaching the course shall be at liberty to add new topics/cases.
3. The students are required to study the legislations as amended up-to-date and consult the latest editions of books.



FIVE-YEAR INTEGRATED LAW COURSE

BA LL.B. (Hons.) and BBA LL.B. (Hons.)

IV Semester

Law of Crimes – II
(The Bharatiya Nagarik Suraksha Sanhita, 2023)

FACULTY OF LAW
UNIVERSITY OF DELHI

Law of Crimes – II

(The Bharatiya Nagarik Suraksha Sanhita, 2023)

The primary objectives of this course are to:-

- To familiarise the students with the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) that is set to replace the Code of Criminal Procedure, 1973 (CrPC).
- To highlight the key changes introduced in the BNSS in order to ensure a criminal justice system with simple procedures, forensic investigation for serious offences, reduced pendency of cases, improvement in conviction rates, use of technology to facilitate access to justice and specified timelines for justice delivery.
- To discuss the procedure for investigation and trial of offences (like initiation of criminal cases, powers and duties of police during investigation of offences, stages of criminal trial, functions, duties, and powers of criminal courts) under the BNSS while highlighting how these procedures are different from the CrPC.
- To compare the coverage of critical issues in administration of criminal justice like protection of human rights of accused, victims and the principles of fair trial in the BNSS and the CrPC.

Learning Outcomes:

At the end of the course, the students will be able to:

1. Identify the key changes introduced in the BNSS as compared to the CrPC.
2. Explain the powers, functions and duties of police and criminal courts under the BNSS.
3. To critically analyse the significance of the new provisions in the BNSS.
4. Employ and promote adoption of humane and just practices in administration of criminal justice with emphasis on protection (*suraksha*) of the citizen.

Prescribed Legislations:

1. The Bharatiya Nagarik Suraksha Sanhita, 2023
2. The Code of Criminal Procedure, 1973

Prescribed Books:

1. Saurabh Kansal, Vageshwari Deswal, Shruti Goyal, *Bharatiya Nagarik Suraksha Sanhita 2023 Law and Practice*, (Taxmann Publications Private Limited, April 2024).
2. K.N.Chandrsekharan Pillai (Rev.), R. V. Kelkar's *Criminal Procedure*, (7th ed., 2021).
3. K.N.Chandrsekharan Pillai (Rev.), R. V. Kelkar's *Lectures on Criminal Procedure*, (6th ed., 2017).

Topics

1. Introduction to BNSS

- a. Importance of Criminal Procedure
- b. Comparative Table - BNSS vis a vis Cr PC.
- c. Stakeholders and Functionaries in the Criminal Justice Administration System
- d. Hierarchy, powers and duties of Criminal Courts
- e. Definitions- Sections 2(1)(a), 2(1)(c), 2(1)(k), 2(1)(l), 2(1)(x), 2(1)(y), and 2(1)(z) of the BNSS

2. Initiation of Criminal Case -Section 2 (1)(g), Section 2 (1)(h), Sections 173 to 175, Sections 179 – 184, Section 187, Section 193, Section 196 of the BNSS.

In the scheme of the BNSS, 2023, for the purposes of setting criminal investigation machinery into motion, offences are classified into two categories: (i) cognizable offences and (ii) non-cognizable offences. In case of cognizable offences, a police officer can arrest an accused without a warrant but in case of non-cognizable offences he cannot arrest or investigate into such an offence without authorization in this behalf by the magistrate. In case of cognizable offences, an F.I.R forms the basis for putting the investigative machinery into motion. A general overall view of investigation will be given to the students with special emphasis on the essentials of F.I.R and its evidentiary value, police officer's powers to investigate cognizable cases, procedure for investigation, police officer's powers to require attendance of witnesses, examination of witnesses by the police, recording of confessions and statements and report of police officer on completion of investigation.

Cases: *Lalita Kumari v. Govt. of Uttar Pradesh*, 2008 (11) SCALE 154
Lalita Kumari v. Govt. of Uttar Pradesh, 2008 (11) SCALE 157
Lalita Kumari v. Govt. of Uttar Pradesh, 2013 (13) SCALE 559

Lalita Kumari v. Govt. of Uttar Pradesh, CrI.M.P. no.5029 of 2014 in Writ Petition (CrI.) No.68 of 2008

Youth Bar Association of India v. Union of India, (2016) 9 SCC 473

State of Orissa v. Sharat Chandra Sahu, (1996) 6 SCC 435

Madhu Bala v. Suresh Kumar, (1997) 8 SCC 476

Sakiri Vasu v. State of Uttar Pradesh, (2008) 2 SCC 409

Vinubhai Haribhai Malaviya v. State of Gujarat, 2019 SCC OnLine SC 1346

3. Investigation -The BNSS- Sections 176, 35 – 38, 43-44, 96, 47-48, 49 -51, 53 -54, 56-58, 62.

- a. Procedure for Investigation
- b. Arrest – procedure and rights of arrested person
- c. Search and seizure (sections 165, 166 read with section 100)

Cases: *D.K.Basu v. State of West Bengal*, (1997) 6 SCC 642

State of Haryana v. Dinesh Kumar, (2008) 3 SCC 222

Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273

4. Bail- Ss. 478 - 483 of the BNSS

Criminal offences are further classified under the Cr.P.C. into bailable and non-bailable offences. In case of bailable offences, an accused is entitled to bail as a matter of right on furnishing of surety. In case of non-bailable offences, bail is a matter of discretion with the courts and the discretion becomes narrower depending upon the severity of the punishment that an offence entails. How this discretion is to be exercised and what are the principles governing grant of bail in such cases is discussed in the cases given below. The concept of anticipatory bail and the principles governing its grant are also a subject matter of study here. Further, principles governing cancellation of bail are also discussed here.

- a. Grant of Bail, including anticipatory bail
- b. Cancellation of Bail
- c. Compulsory release

Cases: *State v. Captain Jagjit Singh*, (1962) 3 SCR 622

Moti Ram v. State of M.P., (1978) 4 SCC 47

Gurcharan Singh v. State (Delhi Admn.), (1978) 1 SCC 118

Sanjay Chandra v. Central Bureau of Investigation, (2012) 1 SCC 40

Shri Gurbaksh Singh Sibbia v. State of Punjab, (1980) 2 SCC 565
Sushila Aggarwal v. State (NCT of Delhi), (2020) 5 SCC 1
State (Delhi Administration) v. Sanjay Gandhi, (1978) 2 SCC 411
Gautam Navlakha v. National Investigation Agency, 2021 SCC
 OnLine SC 382

5. **Pre-Trial Proceedings** - BNSS, Ss. 210, 213, 222, 223, 225, 227, 232-247, 251
 - a. Cognizance of Offences
 - b. Committal Proceedings
 - c. Framing of Charges

Mohan Singh v. State of Bihar, (2011) 9 SCC 272
Ajay Kumar Parmar v. State of Rajasthan, (2012) 9 SCALE 542
6. **Trial** - Ss. 2(w) (x) and (y), 248-249, 253-254, 256-257, 265-267, 274, 283, 285 of the BNSS.
 - a. Differences among warrant, summons, and summary trials
 - b. Production of Witnesses - Summons and warrants
 - c. S.360 -Withdrawal of Prosecution

Abdul Karim v. State of Karnataka, (2000) 8 SCC 710
7. **Rights of Accused and Victims**
 - a) Features of Fair Trial – BNSS Ss.308, 337, 340-341, 351, 354, 355, 358, 360, 366, 447, 450; Articles 20 (1) (3), 22(1), 39A of the Constitution
 - b) Rights of Victims – Ss.395, 396, 413, Proviso
 - c) Witness Protection -BNSS, S.398
 - d) Delhi High Court Guidelines for Protection of Vulnerable Witnesses.
 - e) Witness Protection Scheme 2018

Cases:

Zahira Habibulla H. Shiekh v. State of Gujarat, (2004) 4 SCC 158
Mohammed Hussain v. State (Govt. of NCT Delhi), (2012) 9 SCC 408
Mohd. Ajmal Amir Kasab v. State of Maharashtra, (2012) 9 SCC 1
Hardeep Singh v. State of Punjab, (2014) 3 SCC 92
Mehmood Nayyar Azam v. State of Chhattisgarh,
 (2012) 8 SCC 1
Mrs. Neelam Katara v. Union of India, ILR (2003) II Del 377

8. Judgment - BNSS, Ss. 250, 252, 255, 258, 262, 264, 269, 271, 275, 287, 288
392, 393

- a. Discharge and acquittal
- b. Conviction
- c. Hearing on sentence
- d. Content of judgments.

Ajay Pandit @ Jagdish Dayabhai Patel v. State of Maharashtra,
(2012) 8 SCC 43

9. Other Means of Disposal of Cases

a. Plea Bargaining

- 154th Report of the Law Commission of India, 1996, pp. 51-54
- BNSS, Chapter XXIII- Plea Bargaining(Ss. 289-300)

b. Compounding of cases: BNSS, S. 359

c. Probation: BNSS, Ss. 401-402

10. Appeals, Inherent Powers of the High Court: BNSS, Ss. 413-435, S. 528

Gian Singh v. State of Punjab, (2012) 10 SCC 303

State of M.P. v. Deepak, (2014) 10 SCC 285

Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur. v. State of Gujarat,
(2017) 9 SCC 641

Important note –

1. The topics and cases given above are not exhaustive. The teachers teaching the course shall be at liberty to add new topics/cases.
2. The students are required to study the legislations as amended up to date and consult the latest editions of books.



FIVE-YEAR INTEGRATED LAW COURSE

BA LL.B. (Hons.) and BBA LL.B. (Hons.)

IV Semester

Law of Evidence
Bharatiya Sakshya Adhiniyam, 2023

FACULTY OF LAW
UNIVERSITY OF DELHI

Course Name: Law of Evidence (*Bharatiya Sakshya Adhinyam*, 2023)

Course Credits: 4

Course Objectives:

This Course aims to fulfil the following objectives:

- Familiarize students with the general rules and principles of evidence as enshrined under the *Bharatiya Sakshya Adhinyam*, 2023.
- Introduce students to the precise and uniform rules of practice of courts while dealing with facts and circumstances of the case, by means of evidence.
- Educate the students about the purpose of law of evidence, *i.e.*, to ensure fair trial.
- Acquaint the students with the impact of technological advancements in the country upon the new law related to evidence.
- Highlight the changes brought about in the *Bharatiya Sakshya Adhinyam*, 2023, in comparison with the predecessor law, *i.e.* the Indian Evidence Act, 1872.

Course Learning Outcomes:

Upon successful completion of this course, the students will be able to gain competence in the following areas:

- Describe the concept and nature of different types of evidence.
- Understand the concept of ‘burden of proof’, and the standard of burden of proof to be followed in civil and criminal cases.
- Identify and apply the rules relating to relevance and admissibility of evidence in courts.
- Explain the role and presumption powers endowed upon the judges during the trials.
- Assess and analyze the statutory provisions in the light of settled legal principles.
- Appraise the role played by the witnesses during a trial, and the evidentiary value attached to ocular evidence *vis-à-vis* scientific evidence.
- Evaluate the applicability and admissibility of forensic science in civil and criminal cases along with the admissibility of expert opinion.
- Critique the procedure of examination of witnesses and different categories of witnesses involved in a suit or proceeding.

Prescribed Legislation:

Bharatiya Sakshya Adhinyam, 2023.

Prescribed Books:

- Saurabh Kansal and Vageshwari Deswal, *Bharatiya Sakshya Adhinyam 2023: Law and Practice* (Taxmann, 2024).
- Sudipto Sarkar, *Commentary on Law of Evidence* (Sweet & Soft, 8th edn., 2023).
- Shakil Ahmad Khan, *Woodroffe and Amir Ali: Law of Evidence* (LexisNexis, 21st edn., 2022).
- K.A. Pandey, *Vepa P. Sarathi’s Law of Evidence* (Eastern Book Company, 8th edn., 2021).
- M. Monir, *Textbook on The Law of Evidence* (LexisNexis, 12th edn., 2021).
- Yuvraj P. Narvankar, *Electronic Evidence in the Courtroom: A Lawyer’s Manual* (LexisNexis, 2022).

COURSE CONTENT

I. GENERAL ISSUES RELATING TO LAW OF EVIDENCE

- a) Re-enactment of past events for deducing blameworthiness or entitlements of the parties is the core enquiry of evidence law.
- b) Similarities between the historians, authors, media persons and lawyers in their re-enactment of 'past event' enterprise.
- c) Why do the rules of evidence have different significance under the Adversarial System and Inquisitorial Systems of Justice?
- d) History of statutory evidence law in India.
- e) Situation pre and post Indian Evidence Act, 1872.
- f) Changes introduced in evidence law by the *Bharatiya Sakshya Adhiniyam*, 2023.
- g) Words and expressions used in the *Bharatiya Sakshya Adhiniyam*, 2023 which are not defined under this legislation, but defined under the Information Technology Act (Act No. 21 of 2000), the *Bharatiya Nagarik Suraksha Sanhita*, 2023 and the *Bharatiya Nyaya Sanhita*, 2023 shall have the same meaning as assigned to them under the aforesaid legislations.
- h) Role of Judiciary, particularly the appellate judiciary, in updation of the rules of evidence law by judicial creativity.
- i) Understanding the concepts such as: 'Document', 'Evidence', 'Facts', 'Facts in issue', 'Relevant Fact', 'Proved', 'Disproved' and 'Not Proved'.
- j) Relationship between law of evidence and substantive laws (Criminal and Civil laws) and procedural laws (*Bharatiya Nagarik Suraksha Sanhita*, 2023 and The Code of Civil Procedure, 1908).

II. RELEVANCY AND ADMISSIBILITY OF FACTS

- (a)
 - (i) Logically relevant facts (Ss. 3-7 and 9 of BSA, corresponding to Ss. 5-9 and 11 of IEA)
 - (ii) Special class of relevant facts relating to Conspiracy (s. 8 of BSA, s. 10 of IEA)
- (b) Stated relevant facts
 - (i) Admissions – Ss. 15-21 and 25 of BSA, Ss. 17-23 and 31 of IEA
 - (ii) Confessions – Ss. 22-24 of BSA, Ss. 24-30 of IEA
 - (iii) Dying Declarations – s. 26(1) of BSA, s. 32(1) of IEA
- (c) Opinion of Third Person when relevant – Ss. 39-45 of BSA, Ss. 45-51 of IEA

Caselaw

- 1. *State of Maharashtra v. Prafulla B. Desai (Dr.)*, (2003) 4 SCC 601
- 2. *R. M. Malkani v. State of Maharashtra*, AIR 1973 SC 157
- 3. *Mirza Akbar v. Emperor*, AIR 1940 PC 176
- 4. *Badri Rai v. State of Bihar*, AIR 1958 SC 953
- 5. *Mohd. Khalid v. State of W.B.* (2002), 7 SCC 334
- 6. *Jayantibhai Bhenkerbhai v. State of Gujarat*, (2002) 8 SCC 165
- 7. *Bishwanath Prasad v. Dwarka Prasad*, AIR 1974 SC 117
- 8. *Central Bureau of Investigation v. V.C. Shukla*, AIR 1998 SC 1406

9. *Veera Ibrahim v. State of Maharashtra*, AIR 1976 SC 1167
10. *Aghnoo Nagesia v. State of Bihar*, AIR 1966 SC 119
11. *Pulukuri Kottaya v. Emperor*, AIR 1947 PC 67
12. *Bodhraj v. State of J&K* (2002), 8 SCC 45
13. *Khushal Rao v. State of Bombay*, AIR 1958 SC 22
14. *Sudhakar v. State of Maharashtra* (2000), 6 SCC 671
15. *Patel Hiralal Joitaram v. State of Gujarat*, (2002) 1 SCC 22
16. *Laxman v. State of Maharashtra*, (2002) 6 SCC 710
17. *Ram Narain v. State of U.P.*, AIR 1973 SC 2200: (1973) 2 SCC 86
18. *Dharam Deo Yadav v. State of U.P.*, (2014) 5 SCC 509*
19. *Mukesh & Anr. v. State (NCT of Delhi) & Ors.*, (2017) 6 SCC 1*

III. ON PROOF

- (a)
 - (i) Facts which need not be proved (Ss. 51-53 of BSA, Ss. 56-58 of IEA)
 - (ii) Facts which the parties are prohibited from proving
Doctrines of Estoppel (Ss. 121-123 of BSA, Ss. 115-117 of IEA)
 - (iii) Privileged communications (Ss. 127-134 of BSA, Ss. 121-129 of IEA)
- (b)
 - (i) Oral and documentary evidence (Ss. 54-77 of BSA, Ss. 59-78 of IEA):
s. 61 of BSA which deals with 'Electronic or Digital Record' is a newly inserted provision.
 - (ii) Exclusion of oral by documentary evidence (Ss. 94-95 of BSA, Ss. 91-92 of IEA)

Caselaw

20. *R. S. Maddanappa v. Chandramma*, (1965) 3 SCR 283
21. *Madhuri Patel v. Addl. Commissioner, Tribal Development*, AIR 1995 SC 94
22. *Sanatan Gauda v. Berhampur University*, AIR 1990 SC 1075
23. *M.C. Verghese v. T.J. Ponnann*, AIR 1970 SC 1876
24. *State of U.P. v. Raj Narain*, AIR 1975 SC 865

IV. ACCOMPLICE EVIDENCE [s. 138 of BSA read with s. 119 Illustration (b)] [s. 133 of IEA read with s. 114 Illustration (b)]

Caselaw

25. *Bhuboni Sahu v. The King*, AIR 1949 PC 257
26. *Haroon Haji Abdulla v. State of Maharashtra*, AIR 1975 SC 856
27. *Ravinder Singh v. State of Haryana*, AIR 1975 SC 856

V. WITNESSES: COMPETENCE AND EXAMINATION

- (a)
 - (i) Child Witness (s. 124 of BSA, s. 118 of IEA)
 - (ii) Dumb Witness (s. 125 of BSA, s. 119 of IEA)
 - (iii) Hostile Witness (s. 157 of BSA, s. 154 of IEA)
- (b) Examination, cross-examination, and re-examination- Ss. 142-144 and 158 of BSA, Ss. 137-139 and 155 of IEA

Caselaw

28. *State of Bihar v. Laloo Prasad*, (2002) 9 SCC 626

VI. PRESUMPTIONS

Ss. 2(1), 35, 108, 115, 116, 117, 118, 119 and 120 of BSA, corresponding to Ss. 4, 41, 105, 111A, 112, 113A, 113B, 114, 114A of IEA

Caselaw

- 29. *Goutam Kundu v. State of West Bengal*, AIR 1993 SC 2295
- 30. *Dipanwita Roy v Ronobroto Roy*, AIR 2015 SC 418

LEGEND:

In this Course Content:

- a) BSA indicates *Bharatiya Sakshya Adhiniyam*, 2023.
- b) IEA indicates Indian Evidence Act, 1872.
- c) s. indicates Section.
- d) Ss. denotes Sections.

IMPORTANT NOTE:

- 1. The topics and cases given above are not exhaustive. The teachers teaching the course shall be at liberty to add new topics/cases.
- 2. The students are required to study the legislations as amended up-to-date and consult the latest editions of books.
- 3. The Question Paper shall include eight questions out of which five will be required to be attempted.

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