

Maharashtra Judicial Academy, Uttan.

Reference Material on Electronic Evidence and Cyber Law

6 Days Training for Judges, Prosecutors and Investigating Officer

03 to 08 April 2017

<u>S.</u>	<u>Topic</u>	<u>Authority</u>	<u>Ratio</u>
1	Tape Record: Admissibility conditions	R.K. Anand Vs. Registrar, Delhi High Court, (2009) 8 SCC 106.	Similar conditions for admissibility of a tape-recorded statement were reiterated,
2	V.C Evidence Through in Civil Cases	Amitabh Bagchi Vs. Ena Bagchi, MANU/WB/0305/2004,	Recording of evidence through Video Conference is permissible in civil cases.
3	Electronically Recorded S.27 Evi. Act statement	Amulya Kumar Panda Vs State of Orissa. 2008 CRI. L. J. 1676	CD containing S.27 Evidence Act was exhibited without objection of the accused. Allowed to be played to the extent of S.27 statement.
4	S.65B Evidence Act	Anvar P. V. Vs. P. K. Basheer, 2014 (10) SCALE 660	Sections 65A and S.65B overrides S.63 and 65 Evi Act. Hence, secondary evidence of electronic record can be with S.65B Certificate only.
5	S.65B Certificate Sample Certificate	Ark Shipping Co. Ltd. Vs. GRT Shipmanagement, 2007 (6) Bom.C.R. 311.	Case-law containing a sample certificate under S.65B, Evi Act.
6	S.65B Certificate is required when electronic record is adduced in evidence.	Avadut Waman Kushe Vs. State of Maharashtra, 2016 SCC Online Bom 3256 (Hon. Justice R.P. SondurBaldota) dd on 03.03.2016.	Stage for S.65B, Evidence Act Certificate: Certificate can be filed at the time the electronic record is tendered in evidence.-[Observed that this point did not arise in Anvar PV. and Faim @ Lala Ibrahim Khan distinguished]. Paras Jain Vs State of Raj decided on 4.07.2015 by Raj HC Nyati Builders Pvt Ltd v Mr Rajat Dinesh Chauhan, 2015 SCC OnLine Bom 7578
7	S.65B Lawful control	Babu Ram Aggarwal & Anr. Vs. Krishan Kumar Bhatnagar & Ors. 2013 II AD (Delhi) 441	Evi Act S.65B it has to be proved that the computer during the relevant period was in the lawful control of the person proving the email
8	V.C. Expenses	Bodala Murali Krishna Vs. Smt.	The party, who intends to avail V.C. facility, shall be under obligation to meet the entire expenditure.

<u>S.</u>	<u>Topic</u>	<u>Authority</u>	<u>Ratio</u>
		Bodala Prathima, MANU-AP-0973- 2006.	
9	Tape Record: Evidence Recording Rules	Bombay H.C. Criminal Manual Chapter 6 Para 24	Rules are framed for production, use and recording of the tape record evidence in court
10	CDR	Deepti Anil Devasthali vs State, 2009 (111)BOM.L.R. 3981	Call Data Records were accepted by the Court.
11	Hard Disk is storage devise as well as document	Dharambir Vs. Central Bureau of Investigation, 148 (2008) DLT 289. (Delhi)	Electronic Evidence Hard Disc is storage devise if written then electronic record: Criminal Electronic evidence - Sections 173(5) and 207 Cr.p.c - Sections 3 and 65B of the Indian Evidence Act 1872 - Sections 2(o) r/w section 2(t) IT Act - Prosecution intercepted the telephonic conversation between the accused persons and forwarded the relevant hard disks to Forensic lab and after certification same were submitted to Trial Judge - Trial Court took cognizance of the offence and issued process in four separate cases relating to corruption - Question before the court was Whether the hard disks can be considered as relevant document under Evidence Act.? (ii) Does the denial of the same will amount to violation of fundament right to fair trial ? - (iii) Whether prosecution complied with section 207 Cr.pc.? - HDs themselves would be electronic records and therefore documents for the purposes of Section 173(5)(a) read with Section 207(v) CrPC - During the pre-charge stage the trial court is not expected to insist that copy of each and every document gathered by the prosecution must be furnished to the accused irrespective of what the prosecution proposes to rely upon - Prosecution cannot obviate the statutory requirement under Section 207(v) of Cr.p.c for providing to the accused access to the original recording - At the present pre-charge stage, the accused has to be given access to the HDs as a relied upon document to the limited extent - As long as the said provisions of the CrPC are strictly complied with, and they should be insisted upon being strictly followed, there can be no violation of principles of fair Trial - Petitioners are permitted to listen to the original recordings of the relevant intercepted telephonic conversations relied upon by the prosecution - Petition allowed accordingly.
12	CDR is	Faim @ Lala	Stage for S.65B, Evidence Act Certificate: CDR

<u>S.</u>	<u>Topic</u>	<u>Authority</u>	<u>Ratio</u>
	inadmissible without S.65B Certificate	Ibrahim Khan Vs. The State of Maharashtra, 2015 SCC OnLine Bom 5842 dd on 20.12.2015 (Hon. Justice A.S. Gadkari).	produced by the prosecution was held inadmissible for want of certificate under S.65B, Evidence Act.-
13	A CD without S.65B Certificate cannot be allowed in cross-examination also	G Shyamala Ranjini Vs. M.S. Tamizhnathan, AIR 2008 Mad 476	The electronic record is admissible in evidence, but for that purpose the person who is producing the evidence has to satisfy the conditions mentioned under sub-section (2) of Section 65-B of the Indian Evidence Act and is also required to produce a certificate as enumerated under sub-section (4) of Section 65-B of Indian Evidence Act. Since the provisions of Section 65-B of Indian Evidence Act were not complied with by the petitioner,
14	S.65B: Fresh Certificate may be given.	Ignatius Topy Pereira Vs. Travel Corporation (India) Pvt. Ltd and another, 2016 SCC Online Bom 97 (Hon. Justice S.B. Shukre).	Stage for S.65B, Evidence Act Certificate: If the certificate under S.65B, Evidence Act which was produced was rejected as not compliance with the Section, fresh certificate may be produced.-
15	V.C. Evidence in Civil Cases	In Twentieth Century Fox Film Corporation Vs. NRI Film Production Associates (P) Ltd., AIR 2003 Kant 148	Recording of evidence through video conferencing is permissible in law, provided that necessary precautions must be taken, both as to the identity of the witnesses and accuracy of the equipment, used for the purpose. Certain guidelines were indicated therein.
16	S.65B Certificate is required for email printout	Indian Micro Electronics (P) Ltd. Vs. Chandra Industries and Ors., 2015 VIAD (Delhi) 52, 2015 (151) DRJ 183, [2015] 131 SCL 684 (Delhi)	Without Section 65B certificate, email is not an admissible evidence and cannot be relied upon by the accused.-
17	Electronic Record: Admissibility Conditions	<i>Jack R. Lorraine and, Beverly Mack Vs. Markel American Insurance Company</i> , 241 F.R.D. 534 (2007).	In order for electronically stored information (ESI) to be admissible, it must be (1) relevant, (2) authentic, (3) not hearsay or admissible under an exception to rule barring hearsay evidence, (4) original or duplicate, or admissible as secondary evidence to prove its contents, and (5) probative value must outweigh its prejudicial effect. Fed.Rules Evid.Rules 401 , 403 , 803 , 804 , 807 , 901(a) , 1001 -1008, 28

<u>S.</u>	<u>Topic</u>	<u>Authority</u>	<u>Ratio</u>
			U.S.C.A .
18	S.65B Evi. Act	Jagdeo Singh and Ors.Vs. The State MANU-DE-0376-2015	Electronic Evidence CDR without S.65B certificate is inadmissible
19	Tape Record: No question of laying down exhaustive set of rules of admissibility	<i>K. Vs. Maqsd All [1965] All. E.R. 464.</i>	Tape Record Evidence: There can be no question of laying down any exhaustive set of rules by which the admissibility of such evidence should be judged: We can see no difference in principle between a tape recording and a photograph. In saying this we must not be taken as saying that such recordings are admissible whatever the circumstances, but it does appear to this Court wrong to deny to the law of evidence advantages to be gained by new techniques and new devices, provided the accuracy of the recording can be proved and the voices recorded properly identified; provided also that the evidence is relevant and otherwise admissible, we are satisfied that a tape recording is admissible in evidence. Such evidence should always be regarded with some caution and assessed in the light of all the circumstances of each case. There can be no question of laying down any exhaustive set of rules by which the admissibility of such evidence should be judged.
20	CD without S.65B Certificate Rejected.	Kailash H. Vs. Suresh Chandra, 2011 LawSuit (MP) 598	Evidence adduced by the petitioner in shape of photographs and CD was rejected on the objection of the respondent that the documents submitted are inadmissible in evidence
21	Electronic Evidence CCTV footage was used as direct evidence though there was no eye witness	Kishan_Tripathi_vs_The_State MANU-DE-0434-2016	The CCTV footage, which was directly and immediately stored in the hard drive of the computer is the original media, that was self generated and created without any human intervention. This CCTV footage is not secondary evidence and does not require certification under Section 65B of the Evidence Act. This issue is no longer res integra and is settled in the decision of the Supreme Court in Anwar PV. (S) versus P.K. Basir, MANU/SC/0834/2014 : (2014) 10 SCC 473 The CCTV footage is captured by the cameras and can be stored in the computer where files are created with serial numbers, date, time and identification marks. These identification marks/ details are self generated and recorded, as a result of pre-existing software commands. The capture of visual images on the hard disc is automatic in the sense that the video images get stored and recorded suo-moto when the CCTV camera is on and is properly connected with the hard disc installed in the computer. It is apparent in the

<u>S.</u>	<u>Topic</u>	<u>Authority</u>	<u>Ratio</u>
			<p>present case from the evidence led that no one was watching the CCTV footage when it was being stored and recorded. The recording was as a result of commands or instructions, which had already been given and programmed. The original hard disc, therefore, could be the primary and the direct evidence. Such primary or direct evidence would enjoy a unique position for anyone who watches the said evidence would be directly viewing the primary evidence. Section 60 of the Evidence Act states that oral evidence must be direct, i.e., with reference to the fact which can be seen, it must be the evidence of the witness, who had seen it, with reference to the fact, which could be heard, it must be evidence of the witness, who had heard it and if it relates to the fact, which could be perceived by any other sense or any other manner, then it must be the evidence of the witness, who says who had perceived it by that sense or by that manner. Read in this light, when we see the CCTV footage, we are in the same position as that of a witness, who had seen the occurrence, though crime had not occurred at that time when the recording was played, but earlier.</p>
22	Tape Record without transcript not admitted in evidence	Lalji Bansanarayan Choubey vs. jiyalal Chavan, 2009 AIR(Bom) 1230	The accused was prosecuted for an offence punishable under Section 138 of Negotiable Instruments Act and the case of the accused was that cheque was issued towards payment of purchase price of plots owned by complainant and later on he came to know that complainant was not owner of those plots he did not arrange for payment of amount under cheque due to frustration of agreement of sale and the accused tried to produce tape recorded conversation between himself and complainant, Hon'ble Aurangabad Bench of Bombay High Court held that tape recorded was neither immediately produced in Court nor was sealed as per requirement of law and also failure to produce transcription of tape recorded conversation. It was also held that accused failed to rebut presumption regarding legally enforceable debt liable to be convicted.
23	Web site blocking: High Court ordered	Maulana Mahmood Asad Madani Vs. Union of India and Ors. MANU-DE-3061-2013	Delhi HC asked the intermediary to block the remaining urls.
24	Website Blocking	<i>Maulana Mahmood Asad Madani Vs. Union of India and Ors. MANU-DE-</i>	Delhi HC asked the intermediary to block the remaining urls

<u>S.</u>	<u>Topic</u>	<u>Authority</u>	<u>Ratio</u>
			3061-2013.
25	CDR Mobile number locating	Mohd. Arif @ Ashfaq Vs. State of NCT of Delhi (2011) 13 SCC 621	Electronic evidence of CDR for determination of movement of a person on the basis of mobile phone has been accepted.
26	CDR Mobile Location	Mohd. Arif @ Ashfaq Vs. State of NCT of Delhi, (2011) 13 SCC 621.	<i>Electronic Evidence: Determination of movement of a person on the basis of mobile phone</i>
27	Tape Record Sealing in Civil Cases	Mrs. Havovi Kersi Sethna Vs. Mr. Kersi Gustad Sethna, AIR 2011 Bom 283.	Whether the sealing of the recorded conversation is required in civil cases? The requirement of sealing the recorded conversation would be applicable in criminal cases, but not in civil cases.
28	email	Mrs. Nidhi Kakkar Munish Kakkar(2011)162PL R113 dated 10.02.2011	Email proved through printout with S.65B certificate
29	<i>Tape Record's use for corroborating, contradicting and to impeach impartiality</i>	<i>N. Sri Rama Reddy Vs. V. V. Giri, 1971 (1) SCR 399.</i>	<i>A previous statement, made by a person and recorded on tape, can be used not only to corroborate the evidence given by the witness in Court but also to contradict the evidence given before the Court, as well as to test the veracity of the witness and also to Impeach his impartiality.</i>
30	<i>Tape Record as best evidence of a particular statement</i>	<i>N. Sri Rama Reddy Vs. V. V. Giri, 1971 (1) SCR 399.</i>	<i>When it was disputed or in issue whether a person's speech, on a particular occasion, contained a particular statement there could be no more direct or better evidence of it than its tape record, assuming its authenticity to be duly established.</i>
31	<i>Tape Record can be substantive evidence also</i>	<i>N. Sri Rama Reddy Vs. V. V. Giri, 1971 (1) SCR 399.</i>	<i>Like any document, the tape record itself is "primary and direct evidence admissible of what has been said and picked up by the receiver". Its use is not confined to purposes of corroboration and contradiction only, but, when duly proved by satisfactory evidence of what was found recorded and of absence of tampering, it could, subject to the provisions of the Evidence Act, be used as substantiate evidence.</i>
32	Voice Identification should be with precautions applicable for	Nilesh Dinkar Paradkar Vs. State of Maharashtra, (2011) 4 SCC 143	"The voice test identification by PW 19 Jagdish Kulkarni is even otherwise unreliable. The voice identification was conducted without taking any precautions similar to the precautions which are normally taken in visual identification of suspects by witnesses. It is a matter of fact that PW 19 Jagdish

<u>S.</u>	<u>Topic</u>	<u>Authority</u>	<u>Ratio</u>
	visual identification		Kulkarni was informed in advance that he had to identify the voice of the appellant. Similarly, PW 18 was informed that he had to identify the voice of Bharat Nepali. No attempt was made even to mix the voices of Bharat Nepali and the appellant with some other unidentified voices. In such circumstances, the voice identification evidence would have little value. It appears that the exercise was performed only for the record.”
33	Voice Identification	Nilesh Dinkar Paradkar Vs. State of Maharashtra, (2011) 4 SCC 143	The veracity of the voice identification would not improve merely because a recording has been made after receiving official approval from Home Secretary. The crucial identification was of the voice of the person talking on the tape.
34	email: Acceptance though email S.13 I.T. Act	PR. Transport Agency v. Union of India, 2005 SCC OnLine All 880 : AIR 2006 All 23	The place of computer where the email was received gives jurisdiction to the local court.
35	Tape Record: Should be at least adequate to form fair and reliable assessment of conversation	R. Vs, Eobeon [1972] 2 All B.R. 699,	<i>Tape Record Evidence: Continuity, clarity and coherence their quality should be enough at least for a fair and reliable assessment of the conversation: The determination of the question is rendered more difficult because tape recordings may be altered by the transposition, excision and insertion of words or phrases and such alterations may escape detection and even elude it on examination by technical experts. During the course of the evidence and argument on the issue of admissibility the recordings were played back, many times. In the end T came to the view that is continuity, clarity and coherence their quality was at the least, adequate to enable the jury to form a fair and reliable assessment of the conversation which were recorded and that with an appropriate warning the jury would not be led into and interpretation unjustifiably adverse to the accused. Accordingly, so far as the matter was one of discretion, I was satisfied that no injustice could 'arise from admitting the tapes in evidence and that they ought act to be excluded on this basis.</i>
36	Technological Advantages in evidence.	R. Vs. Maqsud Ali (1965) 2 ALL E.R. 464.	Reliability of Electronic Evidence: It would be wrong to deny to the law of evidence advantages to be gained by new techniques and new devices, provided the accuracy of the recording can be proved and the voices recorded are properly identified. Such evidence should always be regarded with some caution and assessed in the light of all the circumstances of each case.
37	Tape Record:	R.M. Malkani Vs.	The essential conditions which, if fulfilled or satisfied,

<u>S.</u>	<u>Topic</u>	<u>Authority</u>	<u>Ratio</u>
	Relevancy, Voice Identification and Accuracy.	State of Maharashtra, 1973 Cri.L.J. 228.	would make a tape-recorded statement, admissible otherwise not are: Tape recorded conversation is admissible provided first the conversation is relevant to the matters in issue; secondly, there is identification of the voice; and, thirdly, the accuracy of the tape recorded conversation is proved by eliminating the possibility of erasing the tape record.
38	Examination of Expert under S.293(1)	Rajesh Kumar and Anr. Vs. State Govt. of NCT of Delhi (2008) 4 SCC 493	Cr.P.C. S.293(1) It is not obligatory that an expert who furnishes his opinion on the scientific issue of the chemical examination of substance, should be of necessity made to depose in proceedings before Court. This aspect has been highlighted by this Court in <u>Ukha Kolhe v. The State of Maharashtra</u> 1963 Cri.L.J. 418 and <u>Bhupinder Singh v. State of Punjab</u> 1988 Cri.L.J. 1097 .
39	Tape Record: Conditions for admissibility	<i>Ram Singh and Ors. Vs. Col. Ram Singh. 1985 (Supp) SCC 611</i>	The conditions for admissibility of a tape recorded statement may be stated as follows: 1) The voice of the speaker must be duly identified by the maker of the record or by others who recognise his voice. In other words, it manifestly follows as a logical corollary that the first condition for the admissibility of such a statement is to identify the voice of the speaker. Where the voice has been denied by the maker it will require very strick proof to determine whether or not it was really the voice of the speaker. 2) The accuracy of the tape recorded statement has to be proved by the maker of the record by satisfactory evidence - direct or circumstantial. 3) Every possibility of tampering with or erasure of a part of a tape recorded statement must be ruled out otherwise it may render the said statement out of context and, therefore, inadmissible. 4) The statement must be relevant according to the rules of Evidence Act. 5) The recorded cassette must be carefully sealed and kept In safe or official custody. 6) The voice of the speaker should be. clearly audible and not lost or distorted by other sounds or disturbances.
40	Website access: Mere access	Ramesh RajagopalVs.Devi Polymers Private LimitedDecided On: 19.04.2016	I.T. Act S.65 and 66 Director accessing website not committed offence
41	Tape Record: Possibility of tampering is no ground to ignore	<i>S.Pratap Singh Vs. The State of Punjab, AIR 1964 SC 72.</i>	<i>Tape Record Evidence: Possibility of tampering is no ground to ignore tape record: There are few documents and possibly no piece of evidence which could not be tampered with. But that would certainly not be a ground on which the Court could reject evidence as inadmissible or refuse to consider it. The above factor would have a bearing only on the weight to be attached</i>

S.	Topic	Authority	Ratio
			<i>to the evidence and not on its inadmissibility. Mere possibility of tampering is no ground to ignore tape record without considering it.</i>
42	Evidence through Electronic Media	<i>Salem Advocate Bar Association Vs. Union of India (UOI), AIR 2003 SC 189</i>	Recording Evidence through Electronic Media: CPC O.18 R.4(3) Evidence can be recorded through electronic media also-
43	S.65B Evi. Act	Sanjaysinh Ramrao Chavan Vs. Dattatray Gulabrao Phalke (2015) 3 SCC 123	Closure report under S.173 (wrongly quoted as S.169 by the P.S.O.) of an investigation was accepted by the Magistrate. While rejecting the challenge, the Court observed that the voice recorded was not clear and the Voice Recorder is not produced. (THIS IS NOT A RATIO THAT THE DEVOICE OF VOICE RECORDER SHOULD BE PRODUCED ALONG WITH THE ELECTRONIC RECORD)
44	Video/Digital Recording of Will is useful	Sayar Kumari Vs. State and ors decided on 09 October 2009 , 2009 Law Suit (Del) 1511	Under the provisions of the IT Act there should be no difficulty in Courts acting upon and accepting as evidence video or digital recordings of the execution of Wills subject to compliance with the requirement of Section 65B of the Evidence Act, 1872. This Court would like to impress upon the Sub- Registrars that with the availability of inexpensive gadgets like webcams, portable and desk top computers, and connectivity through internet, it should be possible to make a video recording of the entire process of execution of a Will at the time of registration (by focussing on the executor of the Will, and the attesting witnesses, and also the administering of certain standard questions by the registering authority to the Executor). It should be possible to have a certified copy of such video/digital recording clip (with the date and time embedded thereon) issued to the parties concerned. There should also be no difficulty in storing in hard disks (with back ups at different secure locations) the recordings of such digital video clips (with date and time embedded) for easy retrieval. This will eliminate to a large extent questions of genuineness or the capacity of the testator to make the Will. If not already done, a protocol should be developed in this regard (along with a manual of instructions to the Registering authorities) by the Government of the National Capital Territory of Delhi (GNCTD) in consultation with the National Informatics Centre.
45	Notice to admit	Shamsher Singh Verma Vs. State of Haryana 2016	Cr.PC. S.294 Accused can call upon prosecution to admit or deny electronic record.

<u>S.</u>	<u>Topic</u>	<u>Authority</u>	<u>Ratio</u>
		Cri.L.J. 364	
46	CD should not be rejected as authenticity can be called from Forensic Lab.	Shansher Singh Verma Vs. State of Haryana, 2015 SCC Online SC 1242.	Trial Court ought not to have rejected production of CD by accused as the accused asked for verifying their authenticity from Forensic Science Laboratory-[Anvar P.V. referred to. R.M. Malkani Vs. State of Maharashtra, (1973) 1 SCC 471 and Ziyauddin Barhanuddin Bukhari Vs. Brijmohan Ramdass Mehra, (1976) 2 SCC 17 relied on]
47	Web site blocking: Magistrate's Power	Sreekanth C. Nair Vs. Licensee Developer on 28 August, 2008	Section 69A, I.T. Act and Rule 10 of Website Block Rules: Magistrate has no power is no matter is pending before him
48	S.65B: Secondary Evidence other than S.65B	State (N.C.T. of Delhi) Vs. Navjot Sandhu @ Afsan Guru AIR 2005 SC 3820	The view in this case that “secondary evidence other than S.65B certificate can be allowed” has been overruled in Anvar P. V. Vs. P. K. Basheer, 2014 (10) SCALE 660
49	Statement subsequent to charge-sheet is not previous statement	<i>State (NCT of Delhi) Vs. Mukesh, (2014) 15 SCC 661.</i>	Evidence Act S.145 and 146: Statement made by witness in a television interview after filing of charge sheet does not amount to his previous statement as it was subsequent to filing of charge sheet.
50	CD in cross-examination without S.65B Certificate is inadmissible	State of Gujarat Vs. Shailendra Kamalkishor Plrttd, 2008 CrLJ 953,	The question arose before the Gujarat High Court regarding admissibility of document relating to electronic record. In this case, the accused was tried for the offence of kidnapping. Number of witnesses were examined by the prosecution. While cross-examining the victim sought permission by defence to put forward CD containing interview of victim on local TV channel and for watching the same on CD player. Permission was granted by the Trial Court. In the circumstances, Hon'ble Gujarat High Court held that the Trial Court fail to consider the fact that CD has not been prepared and preserved safely by independent authority like police, but same has been produced by accused persons.
51	V.C. Evidence through	State of Maharashtra Vs. Dr. Praful B. Desai 2003 (2) ALT (CrL.) 118 (SC).	Examination of witnesses in criminal cases, through video conferencing was approved by the Supreme Court in Now the Maharashtra Govt. circulated a resolution i.e. G.R. recommending its use. (Held further in Sube Singh Vs. State of Haryana, 2006 AIR(SC) 1117 and Rajendra Singh Rana Vs. Swami Prasad Maurya, 2007 AIR(SC) 1305)
52	Charge-sheet	<i>Thana Singh Vs.</i>	Cr.P.C. S.173 Electronic charge sheet -SC directed to

<u>S.</u>	<u>Topic</u>	<u>Authority</u>	<u>Ratio</u>
	in electronic form	<i>Central Bureau of Narcotics, (2013) 2 SCC 590.</i>	supply copy of charge sheet in electronic form additionally.
53	All Prudent Men would not behave in the same way	The State of Maharashtra Vs. Prakash Vishnurao Mane, 1976 Mh.L.J. 73.	Prudent Man's Behaviour: What is required by the Indian Evidence Act is not that all the prudent men in the world should behave in the same way. If some prudent men can reasonably be expected to behave in a particular way, it can be said to be a way of a prudent man. It is enough to hold that such conduct is proved to be honest and without a corrupt motive.
54	Tape Record is admissible on proof of identification etc.	<i>Tukaram S. Dighole Vs Manikrao Shivaji Kokate (2010) 4 SCC 329 =AIR 2010 SC 965</i>	Evi Act S.3: Tape Record is admissible as evidence on proof of identification of voice proof of absence of tampering. Secondary Evidence is not admissible until non-production of primary evidence is satisfactorily proved. Exception is to public document in view of S.65(e), Evidence Act.
55	S.65 Certificate not at bail stage	Uttam Vs. State of Maharashtra 2016 SCCOnline Bom 10217	Electronic Evidence For CCTV footage certificate is not there is not considered at bail stage.
56	Web Site Blocking: Suit for direction to blocking ISP is not barred	<i>Vodafone India Limited. Vs. Messers R.K. Productions Pvt. Ltd.2013 (54) PTC 149 (Mad) (DB) = MANU-TN-1548-2012.</i>	Tenability of Suit and Civil Court's Jurisdiction to direct blocking ISP: I.T. Act S.79 and 81 and Copyright Act 1957 S.62: Whether suit of Plaintiff was maintainable? Held, relying upon Delhi High Court in ESPN Software India Private Ltd.'s case it was held that Indian Courts had jurisdiction to pass order against unknown persons arrayed and present case was not merely suit against unknown persons as ISPs were functioning as vessels for others to use their services to infringe third party works. Further suit was filed under Section 62 of 1957 Act as suit could be filed where Plaintiff had its office and carries on business and there was no necessity to get leave. Moreover cause of action had taken place within jurisdiction of Court - Section 81 of 2000 Act override provision of Section 79 of 2000 Act and it did not oust inherent power of court while directing blocking of any content by ISPs and ISPs were business driven by volume of customers and downloading. When violators many in number Plaintiffs could not identify each and every one. Therefore suit of Plaintiff was maintainable. Court ordered to block URL due to copy right.
57	Tape Record -Time, place, accuracy and voice must be proved by	<i>Yusufalli Esmail Nagree Vs. State of Maharashtra, (1967) 3 SCR 720 :</i>	Tape Records are prone to Tampering: If a statement is relevant, an accurate tape record of the statement is also relevant and admissible. The time and place and accuracy of the recording must be proved by a competent witness and the voices must be properly

S.	Topic	Authority	Ratio
	competent	<i>1968 Cri.L.J. 103.</i>	identified. One of the features of magnetic tape recording is the ability to erase and re-use the recording medium. Because of this facility of erasure and re-use, the evidence must be received with caution. The court must be satisfied beyond reasonable doubt that the record has not been tampered with. The tape record of the dialogue corroborates testimony.
58	Tape Record as res gestae under S.7, Evi. Act.	<i>Yusufalli Esmail Nagree Vs. State of Maharashtra, (1967) 3 SCR 720 : 1968 Cri.L.J. 103.</i>	The process of tape recording offers an accurate method of storing and later reproducing sounds. The imprint on the magnetic tape is the direct effect of the relevant sounds. Like a photograph of a relevant incident, a contemporaneous tape record of a relevant conversation is a relevant fact and is admissible under Section 7 of the Indian Evidence Act. A contemporaneous tape record of a relevant conversation or speech would be part res gestae.
59	Tape Record's Transcript as check against tampering	<i>Ziyauddin Barhanuddin Bukhari Vs. Brijmohan Ramdass Mehra, (1976) 2 SCC 17.</i>	As regards the shorthand transcripts of the tape records, the evidence of their makers is there, it is certainly corroborative inasmuch as it only goes to confirm what the tape records contained. The tape records were the primary evidence of what was recorded. The transcripts could be used to show what the transcriber had found recorded there at the time of the transcription. This operated as a check against tampering.
60	Tape Record, No set of rules can be laid down.	<i>Ziyauddin Barhanuddin Bukhari Vs. Brijmohan Ramdass Mehra, (1976) 2 SCC 17.</i>	<i>Tape Records of speeches are "documents" as defined in S.3, Evidence Act and stand on no different footing than photographs. It would neither be feasible nor advisable to lay down any exhaustive set of rules by which the admissibility of such evidence may be judged.</i>
61	Tape Record Admissibility parameters	<i>Ziyauddin Burhanuddin Bukhari Vs. Brijmohan Ramdass Mehra, (1976) 2 SCC 17</i>	Tape records of speeches were "documents", as defined by Section 3 of the Evidence Act, which stood on no different footing than photographs, and that they were admissible in evidence on satisfying the following conditions: (a) The voice of the person alleged to be speaking must be duly identified by the maker of the record or by others who knew it. (b) Accuracy of what was actually recorded had to be proved by the maker of the record and satisfactory evidence, direct or circumstantial, had to be there so as to rule out possibilities of tampering with the record. (c) The subject matter recorded had to be shown to be relevant according to rules of relevancy found in the Evidence Act. These requirements were deduced by the High Court from R. V. Maqsud Ali
62	Reliability	<i>K. Ramajayam alias</i>	As the photographs, text, audio, video-clips have meta

S.	Topic	Authority	Ratio
		<i>Appu v. Inspector of Police 2016 Cri. L.J. 1542</i>	data files and it is difficult to manipulate.
63	Expert Evidence S.79A, I.T. Act and 45A, Evi Act.	<i>K. Ramajayam Vs. Inspector of Police, Chennai reported in 2016 Cr.L.J. 1542.</i>	"It is axiomatic that the opinion of an expert, which is relevant under Section 45 of the Indian Evidence Act, 1872, when accepted by the Court graduates into the opinion of the Court. The Central Government has not yet issued notification under Section 79A of the Information Technology Act, 2000 on account of which Section 45A of the Indian Evidence Act, 1872 remains mute. Therefore, the methods evolved by Kala (PW-23) and Pushparani (PW-24), Scientific Officers of the Tamil Nadu Forensic Sciences Department to analyze and give their opinions on the electronic data, are correct and cannot be faulted." (The State of Maharashtra issued Government Resolution of Home Depart, Government of Maharashtra No. FSL/0306/634/Pra.Kra.231/Pol-4, Mantralaya, Mumbai 400 032 dated 17th July 2006 in respect of authorization to Cyber Forensic Scientific Laboratory, Mumbai to conduct test on Polygraphy Brain finger printing, narco analysis, cyber crime, tape authentication and speaker identification and accordingly during investigation)
64	S.65B Certificate	<i>Kundan Singh vs. The State reported in MANU/DE/3674/2015</i>	"Even if the certification is not obtained at the time of collection of evidence, yet, at the time of trial, evidence can be given through the person who was in charge of the surver in terms of Section 65B of the Act."
65	Internet	<i>Mohd. Ajmal Mohammad Amir Kasab vs. State of Maharashtra, (2012) 9 SCC 1,</i>	Production of transcripts of internet transactions helped the prosecution case.
66	Adverse Inference	<i>Tomaso Bruno Vs.State of U.P. (2015)7SCC178</i>	Electronic Evidence Adverse Inference drawn due to Omission to produce CCTV footage as the witness stated that he did not find accused therein.
67	Object of procedure is to advance cause of justice	<i>-Rani Kusum v. Smt. Kanchan Devi & Ors., (2005) 6 SCC 705</i>	All the rules of procedure are the handmaid of justice. The language employed by the draftsman of processual law may be liberal or stringent, but the fact remains that the object of prescribing procedure is to advance the cause of justice. In an adversarial system, no party should ordinarily be denied the opportunity of participating in the process of justice dispensation."
68	CDs if obscene or	<i>Fatima Riswana Vs State and others,</i>	The prosecution was relating to exploitation of certain men and women for the purpose of making

S.	Topic	Authority	Ratio
	objectionable, copies should not be given to accused	<i>AIR 2005 SC 712</i>	pornographic photos and videos in various acts of sexual intercourse and thereafter selling them to foreign websites. The case was allotted to fast track court presided over by a lady judge. The accused applied for copies of the CDs. The trial court rejected that prayer. The High Court, also rejected such prayer by observing that if their copies are provided, they can be copied further and put into circulation. However, the High Court allowed viewing of the CDs in the chamber of the judge. It was contended on behalf of the accused that it may cause embarrassment to the lady judge. Hence, the matter was directed to be transferred to the court of a male judge. However the concern of the victim side was not considered. The apex court observed that a judicial officer be it a female or male is expected to face this challenge when call of duty required it. Hence that order was set aside.
69	Online Drugs	<i>Sanjay Kumar Kedia Vs. narcotics control bureau and another, 2008 (2) SCC 294</i>	The appellant was arrested for the offences under sections 24 and 29 of the NDPS Act, on the allegation was that he had used the network facilities provided by his companies for arranging the supply of a banned psychotropic substances online. It was claimed that the companies were mere network service providers and there were protected under section 79 of the information technology act from any prosecution. On the basis of the IP address of various websites which used the same IP address of the websites of the accused it was revealed that the accused was supplying drugs by taking online orders. The court found that there was prima facie material showing that the companies of the accused were not acting merely as a network service provider but where actually running Internet pharmacy and dealing with the prescription drugs like Phentermine and Butalbital.
70	Electronically maintained accounts	<i>State of Punjab and others Vs. M/s Amritsar beverages Ltd and others, AIR 2006 SC 2820</i>	Section 14 (3) of the Punjab general sales tax act provided for inspection of books, documents and accounts and their seizure. The officer seizing the book, account, register or document shall forthwith grant a receipt to a receipt, retaining a copy, affixing signature and seal of the officer on the document and return of the books to the dealer. But, the seized record was cash book, ledger and other registers maintained in a hard disk. Hence, it was not possible to put signature and seal of the official on the seized documents. However, a copy was taken from the hard disk and hard disk was returned.
71	Website blocking	<i>Nirmaljit Singh Narula Vs. Indijobs</i>	In original suit directions were given by High Court

<u>S.</u>	<u>Topic</u>	<u>Authority</u>	<u>Ratio</u>
		<i>at Hubpages. Com & Ors. 190(2012)DLT51 (Del)</i>	due to non-compliance with section 79 of the I.T. Act.
72	Website blocking	<i>Maulana Mahmood Asad Madani Vs. Union of India and Ors. MANU-DE-3061-2013</i>	IT Act S.69A Delhi HC asked the intermediary to block the remaining urls
73	Presumption S.88, Evi Act	<i>Mobarik Ali Ahmed Vs. The State of Bombay, AIR 1957 SC 857.</i>	Presumption as to the message: (Evidence Act Section 88): Effect of.-The presumption under the provision is only to the extent that the message received by the addressee corresponds with the message delivered for transmission at the office of origin.
74	S.66A	<i>Shreya Singhal v. Union of India, (2013) 12 SCC 73</i>	S. 66-A - Constitutional validity - Offensive message through communication service - What is - Social networking sites - Comments posted thereon - Interim relief pending final adjudication on constitutionality - Advisory dt. 9-1-2003 of Central Government - Advisory suggests that arrest ought not be made in a case registered under S. 66-A of IT Act, 2000 unless such arrest is approved by a senior police officer not below the rank of the Inspector General of Police in the metropolitan cities or of an officer not below the rank of Deputy Commissioner of Police or Superintendent of Police at the district level, as the case may be - Held, this safeguard ought to be followed till matter is finally decided, (2013) 12 SCC 73
75	S.66A is unconstitutional	<i>Shreya Singhal v. Union of India (2015) 5 SCC, 1.</i>	S.66A, I.T. Act has been struck down.
76	Cr.PC. S.227 and 239	<i>State of Orissa Vs Debendra Nath Padhi, AIR 2005 SC 369</i>	At the state of framing of charge the documents produced by accused cannot be considered- (Satish Mehra Vs. Delhi Administration (1996) 9 SCC 766 is overruled)
77	Cr.PC. S.226 and 231	<i>Banti @ Guddu Vs. State of Madhya Pradesh, AIR 2004 SC 261</i>	Prosecutor can skip witness: If the public prosecutor got reliable information that any of his witnesses would not support the prosecution version, he can interview that witness beforehand and state to the Court and skip that witness.
78	Cr.PC. S.231	<i>State of Bombay Vs. Mohamadh Khan</i>	Additional witness for prosecution can be allowed

<u>S.</u>	<u>Topic</u>	<u>Authority</u>	<u>Ratio</u>
		AIR 1960 Bom 150	
79	Cr.PC. S.235(2)	Ram Deo Chauhan Vs. State of Assam (2001) 5 SCC 714	Accused upon conviction can be sent to jail until hearing on sentence
80	Cr.PC. S.311	Rajendra Prasad Vs. The Narcotic Cell, AIR 1999 SC 2292.	Lacuna Means inherent weakness or a latent wedge: After the defence and prosecution closed their evidence, the prosecution applied to resummon two of it's already examined witnesses, for proving it's certain documents. Thus, a question arose, whether a trial court can permit a lacuna in prosecution evidence to be filled up? Upholding allowing the application, held that the conventional concept is that the court should not do so. But, then, what is meant by lacuna in a prosecution case, has to be understood before deciding the said question one way or the other. Lacuna in the prosecution must be understood as the inherent weakness or a latent wedge in the matrix of the prosecution case. No party in a trial can be foreclosed from correcting errors.
81	Cr.PC. S.311	AG Vs Shiv Kumar Yadav, 2015 Cri.L.J. 4640 (SC)	Mere change of counsel is not a valid ground for recalling witness -
82	Cr.PC. S.313(1)(b)	Laxman @ Laxmayya vs. The State of Maharashtra, 2012 Cri.L.J.2826 (Bom)	Before questioning the accused, the Court shall caution the accused that he can decline to give answers and his inculcate statements may be taken into consideration.
83	Cr.PC. S.319	Hardeep Singh etc. Vs. State of Panjab and ors. etc. (2014) 3 SSC 92	A person who has been discharged can also be arraigned as accused under S.319, but only after an inquiry as contemplated by Section 300(5) and 398, Cr.PC., if during such enquiry there appears to be evidence against such person-(Constitution Bench).
84	Cr.PC. S.354	State of Gujarat Vs. Kishanbhai etc., (2014) 5 SCC 108.	Acquittal Judgment shall point out lapses if any: On the culmination of a criminal case in acquittal, the concerned investigating/prosecuting official(s) responsible for such acquittal must necessarily be identified. A finding needs to be recorded in each case, whether the lapse was innocent or blameworthy. Each erring officer must suffer the consequences of his lapse, by appropriate departmental action, whenever called for.
85	Cr.PC. 357	Siyasaran Vs. State 1995 Cri.L.J. 2126	Court to locate victim and pay compensation
86	Cr.PC. S.357(3):	R. Mohan Vs. A.K. Vijaya Kumar,	Order under this section must have potentiality to secure its observance. If merely an order directing

<u>S.</u>	<u>Topic</u>	<u>Authority</u>	<u>Ratio</u>
		2012(8) SCC 721.	compensation is passed, it would be totally ineffective. Deterrence can only be infused into the order by providing for a default sentence. Hence, the order to pay compensation to be paid by the convict may be enforced by awarding sentence of imprisonment in default.
87	Cr.PC. S.357 & 357A:	Monohar Singh Vs. State of Rajasthan, AIR 2015 SC 1124	Just compensation to the victim has to be fixed having regard to medical and other expenses, pain and suffering, loss of earning and other relevant factors. While punishment to accused is one aspect, determination of just compensation to the victim is the other. At times, evidence is not available in this regard. Some guess work in such a situation is inevitable. Compensation under S.357, Cr.PC. is payable by convict. Section 357A, Cr.PC. has to be invoked to make up the requirement of just compensation.
88	Cr.PC. S.357 & 357A:	State of M.P Vs. Mehtab, 2015(5) SCC 197	It is the duty of the court to award just sentence. Mechanical reduction of sentence to the period already undergone cannot be appreciated. Sentence has to be fair not only to the accused but also to the victim and the society. Accused was ordered to pay compensation of Rs.2 Lakhs under S.357(3) and the State to pay compensation of Rs.3 Lakhs and if the accused does not pay, the State was directed to pay the entire amount of Rs.5 Lakhs.
89	Cr.PC. S.384 TO 386:	K.S. Panduranga Vs. State of Karnataka AIR 2013 SC 2164	Appeal once admitted has to be decided on merits even in absence of accused -K.S. Panduranga Vs. State of Karnataka AIR 2013 SC 2164 (Dictum in Mohd. Sukur Ali (2011) 4 SCC 729 to the effect that the Court cannot decide a criminal appeal in absence of counsel for the accused and that too if the counsel does not appear deliberately or shows negligence in appearing, being contrary to the ratio laid down by Larger Bench in Bani Singh, AIR 1996 SC 2439, is per incuriam.)
90	Cr.PC. S.418:	Lallan Singh Vs. State of U.P. 2015 (13) SCC 362	Conviction Warrant: Upon receiving order of dismissal of appeal or revision trial court to issue warrant
91	Cr.PC. S.427	Sadashiv Chhokha Sable Vs. State of Maharashtra, 1993 CriLJ 1469.	Undergoing sentence does not mean that the accused shall actually be in prison instead of on bail pending the appeal in the prior case.
92	Cr.PC. S.427:	Mohd. Akhtar Hussain alias Ibrahim Ahmed Bhatti v. Assistant	Totality of the Sentence has to be considered: The basic rule of thumb over the years has been the so called single transaction rule for concurrent sentences. If a given transaction constitutes two

S.	Topic	Authority	Ratio
		Collector of Customs (Prevention) Ahmedabad and others, (1988) 4 SCC 183	offences under two enactments generally, it is wrong to have consecutive sentences. It is proper and legitimate to have concurrent sentences. But. this rule has no application if the transaction relating to offences Is not the same or the facts constituting the two offences are quite different.
93	Cr.PC. S.427:	Mohd. Akhtar Hussain Alias AIR 1988 SC 2143.	If a given transaction constitutes two offences under the enactments, generally it would be wrong to impose consecutive sentences. It would be proper and legitimate to have concurrent sentences, but the said rule would have no application if the facts constituting the same offences are quite different.
94	Cr.PC. S.437A:	Farooq Abdul Gani Surve Vs. State of Maharashtra, decided on 17 Oct 2011 (Bombay High Court DB)	In conviction cases, S.437A is not applicable:
95	Cr.PC. S.439, I.P.C. S.376, 363, 363A and POCSO Act S.3, 4, 5, and 6:	Sunil Mahadeo Patil Vs. The State of Maharashtra decided on 03.08.2015	Bail in love affair related cases: Overall consideration while deciding bail application are: (i) Age of the minor prosecutrix, (ii) Whether the act is violent or not, (iii) antecedents, (iv) Whether the offender is capable of repeating the act or not, (v) Likelihood of threats or intimidation, (vi) Chance of tampering with material witnesses and Ivii) the accused-boy's prospects of getting employment and to plan, stabilize and secure his future.
96	Evi Act S.3: Interested Witness:	State of Rajasthan Vs. Smt. Kalki and another, AIR 1981 SC 1390	A witness may be called "Interested" only when he or she derives some benefit from the result of litigation in the decree in a civil case, or in seeing an accused person punished. A witness is a natural and is the only possible eye witness in the circumstances of a case cannot be said to be interested. A relation of a victim may be a natural witness.
97	Evi Act S.3 Enmity:	Raman Kalia Vs. State of Gujarat, AIR 1979 SC 1261.	The witnesses were inimical to the accused, but that by itself was not a sufficient ground for rejecting their testimony.
98	Evi Act S.3	Bharwada Bhoginbhai Hirjibhai Vs. State of Gujarat, AIR 1983 SC 753	Discrepancies in oral evidence: Discrepancies which do not go to the root of the matter and shake the basic version of the witnesses cannot be annexed with undue importance. More so when the all important "probabilities-factor" echoes in favour of the version narrated by the witnesses. The reasons are given in -
99	Evi Act S.27:	Vikram Singh and others Vs. State of Punjab, (2010) 3	Accused need not be in formal arrest when he gave the information.

<u>S.</u>	<u>Topic</u>	<u>Authority</u>	<u>Ratio</u>
		SCC 56.	
100	Evi Act S.27 and S.162(2), Cr.PC.	State, Govt. of NCT of Delhi Vs. Sunil and another, (2001) 1 SCC 652	(A) It is fallacious impression that when recovery is effected under S.27, Evidence Act, the document prepared by the I.O., contemporaneous with such recovery, must be attested by independent witness. Of course, if any such statement leads to recovery of any article, it is open to the investigating officer to take the signature of any person present at that time, on the recovery document. (B) It is not a legally approvable procedure to presume the police action as unreliable to start with, or to jettison such action merely for the reason that police did not collect signature of independent persons in the documents made contemporaneous with such actions.
101	Evi. Act S.3:	Ahir Raja khima Vs. State of Saurashtra, AIR 1956 SC 217.	Police credibility: The presumption that a person acts honestly applies as much in favour of a police officer as in other persons and it is not a judicial approach to distrust or suspect him without good ground thereof. Such an attitude could do neither credit to Magistrate not to the public. It can only run down prestige of public administration.
102	Evi. Act S.3 and 114	Behari Prasad VS. State of Bihar, AIR 1996 SC 2911	Non-examination of the I.O. per se is not fatal: Investigating officer was not examined. A case of prejudice likely to be suffered by an accused must depend on the facts of the case and no universal straitjacket formula should be laid down that non-examination of the investigating officer per se vitiates a criminal trial –
103	Evi Act S.3:	Appabhai and anr Vs. State of Gujarat, AIR 1988 SC 696	Non-examination of independent witness was not fatal. Civilized people are generally insensitive.
104	Evi. Act S.3	Bhagwan Vs State, AIR 1976 SC 202.	Evidence of Hostile witness: Law is well settled that mere fact that witness is declared hostile by the party calling him and was allowed to be cross-examine, does not make him an unreliable witness so as to exclude his evidence all together.
105	Evi. Act S.3:	Bholaram Kushwaha Vs. State of MP, 2001 Cr.L.J. 116 SC.	Independent witness turned hostile, that itself is not a ground for acquittal-
106	Evi. Act S.3:	Anga Vs. State of Maharashtra, AIR 1981 SC 1227.	Eyewitness not intervened: Evidence of eyewitnesses cannot be rejected merely on the ground that they did not intervene to save the deceased
107	Evi. Act S.3: FIR details unnecessary:	Gurnam Kaur Vs. Bashib Singh, AIR 1981 SC 631.	The FIR given by a rustic lay woman is not to be treated as or equated to the summary of the entire prosecution's case and a mere omission to mention an incidental fact cannot have the effect of nullifying an

<u>S.</u>	<u>Topic</u>	<u>Authority</u>	<u>Ratio</u>
			otherwise proper and impeccable report -
108	Evi. Act S.3:	Babu Krishna Kamble versus state of Maharashtra, AIR 1980 SC 1269.	No cross on delay in FIR: Where there was no cross-examination of the reasons explained for lodging the delayed FIR, the defence cannot urge that no reliance should be placed.
109	Evi Act S.3	Modan Singh Vs State of Rajasthan AIR 1978 SC 1511	Seizure can be believed if the evidence of IO is convincing though witnesses did not support
110	Evi. Act S.27	Mehboob Ali and Ors. Vs. State of Rajasthan 2015 (12) SCALE 67	Discovery need not be a thing but a fact
111	Evi Act S.27:	State of Rajasthan v. Teja Ram and others, 1999 CrLJ 2588	Investigating Officer need not take signature of accused on seizure memo: The investigating officer has no obligation to obtain signatures of accused but obtaining such signatures is also not illegal. The resultant position is that the Investigating Officer is not obliged to obtain the signature of an accused in any statement attributed to him while preparing seizure memo for the recovery of any article covered by Section 27 of the Evidence Act. But, if any signature has been obtained by an Investigating Officer, there is nothing wrong or illegal about it.
112	Evi. Act S.157	The State of Karnataka Vs. Moin Patel and Others AIR 1996 SC 3041	Non examination of independent witness is not sufficient to discard reliable evidence
113	Evi. Act S.159: Refreshing Memory:	State of Karnataka Vs. K. Yarappa Reddy, (1999) 8 SCC 715	It is always advisable that the investigating officer looks into records before answering any question
114	Evi. Act S.165 and 137:	State of Rajasthan Vs. Ani alias Hanif and Ors, AIR 1997 SC 1023	Witness in a bit of confusion during his cross-examination - Not improper for trial Court to put questions during his cross-examination to elicit truth: A judge is expected to actively participate in the trial, elicit necessary materials from witnesses at the appropriate context which he feels necessary for reaching the correct conclusion. There is nothing which inhibits his power to put questions to the witnesses, either during Chief examination or cross-examination or even during re-examination to elicit truth. The corollary of it is that if a judge felt that a witness has committed an error or a slip it is the duty of the judge to ascertain whether it was so for to err is human and the chances of erring may accelerate under stress of nervousness during cross-examination. Criminal justice is not to be founded on erroneous

<u>S.</u>	<u>Topic</u>	<u>Authority</u>	<u>Ratio</u>
			answers spelled out by witnesses during evidence collecting process. It is a useful exercise for trial judge to remain active and alert so that errors can be minimised.
115	J.J. Act 1986 S.2(k):	Eerati Laxman Vs. State of A.P, AIR 2009 SC 1816	Juvenile Age calculation: Person attains particular age at midnight (12 'O' Clock night) of date preceding anniversary of his birthday
116	OATHS ACT: Oath to Child witness	Rameshwar Vs. State of Rajasthan, 1952 Cri.L.J. 547 (Supreme Court)	The main object of the Oaths Act is to render persons who give false evidence liable to prosecution. The provision of S.5 of the Oaths Act, makes it incumbent that any witness examined by a Court of law in a judicial proceeding may be administered oath or affirmation. But the proviso to that section makes an exception in case of a child witness under 12 years of age. The administration of oath or affirmation may be dispensed with if the Court which examines such witness is of opinion that though he understands the duty of speaking the truth, he does not understand the nature of an oath or affirmation. Thus, under this provision, administration of an oath or affirmation may be dispensed with when the Court forms an opinion that a child witness does not understand the nature of an oath or affirmation but understands the duty of speaking the truth.
117	Cr.PC. S.161 and 162:	State of Gujarat Vs. Kathi Ramku Aligbhai, 1986 Cri.L.J. 239.	It is the duty of the prosecutor and the Judge to bracket the inadmissible portion in the panchanama before giving exhibit number to it .
118	Cr.PC. S.164 and S.80 Evidence Act	Madi Ganga AIR 1981 SC 1165	SC says Magistrate need not be examined to prove the confession
119	Cr.PC. S.167 and S.309	Central Bureau of Investigation Vs. Rathin Dandapath and others, 2015 Cri.L.J. 4488	: Police Custody of post-charge sheet arrested accused is permissible: It is permissible to grant police custody of an accused who is arrested subsequent to the charge-sheet when he was shown as absconding previously.
120	Evi Act S.137 and 154	Sat Paul Vs. Delhi Administratio, AIR 1976 SC 294	Putting questions permissible in cross by the A.P.P would not make it cross examination Sat Paul Vs. Delhi Administration, AIR 1976 SC 294
121		Sat Paul Vs. Delhi Administratio, AIR 1976 SC 294	The discretion conferred by Section 154 on the court is unqualified and untrammelled and is apart from any question of "hostility". It is to be liberally exercised whenever the court from the witness's demeanour, temper, attitude, bearing, or the tenor and tendency of his answers, or from a perusal of his previous inconsistent statement, or otherwise, thinks that the grant of such permission is expedient to

<u>S.</u>	<u>Topic</u>	<u>Authority</u>	<u>Ratio</u>
			extract the truth and to do justice. The grant of such permission does not amount to an adjudication by the court as to the veracity of the witness. Therefore, in the order granting such permission, it is preferable to avoid the use of such expressions, such as "declared hostile", "declared unfavourable", the significance of which is still not free from the historical cobwebs which, in their wake bring a misleading legacy of confusion, and conflict that had so long vexed the English Court