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SUPREME COURT CASES
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Table of cases reported

Abdul Kadir *v.* State of Assam 501
——— Sattar *v.* Union Territory of Chandigarh 505
Alfredo Antonio Deo Martins; Narcinva V. Kamat 274
Amal Mitra; Samaresh Bose 523
Amrawati Bharti; Rajesh Kumar 410
Amrit Nahata *v.* Union of India 402
Anand, K.K.; State 553
Annam Ramalingam; Union of India 237
Anthony, M.K.; State of U.P. 105
Asha Keshavrao Bhosale *v.* Union of India 561
Avtar Singh *v.* State of J & K 126
Baburao Ravaji Mharulkar; State of Maharashtra 2
Ballabh Das; State of U.P. 452
Balran Singh *v.* Bhikam Chand Jain 517
Bhagirath *v.* Delhi Administration 280
Bhagwant Singh *v.* Commr. of Police 267
Bhanwar Lal *v.* State of Rajasthan 91
Bhikam Chand Jain; Balram Singh 517
Bhikan Choudhary; Sumitra Devi 145
Bhim Singh *v.* State of J & K 60
Bhura Singh; State of Punjab 33
Bibi Amarjit Kaur *v.* Union of India 39
C. Elumalai *v.* State of T.N. 1
Chabil Prasad *v.* Sunil Chandra Biswas 364
Chander Kala *v.* Ram Kishan 491
Chandigarh Administration *v.* Dharam Singh 439
Charli Raja; State of M.P. 400
Chief Metropolitan Magistrate; Rajinder Prasad Aggarwal .. 570
——— of Army Staff *v.* Dharam Pal Kukrety 222
Commr. and Secretary, Govt. of Kerala; Prakash Chandra Mehta .. 332
——— of Police; Bhagwant Singh 267
D.M.; Ramesh Yadav 514
Dalip Singh *v.* State of Punjab 486
Delhi Admn.; Bhagirath 280
———; Rakesh Kaushik 280
——— State (Admn.); Kapoor Chand Maganlal Chanderia .. 441
Dhanna Chaudhry *v.* State of Bihar 450

Dharam Pal Kukrety ; Chief of Army Staff 222
——— Singh ; Chandigarh Admn. 439
Director of Enforcement Foreign Exchange Regulation Act ; Partap Singh 312
Dogra, O.P. ; State 553
Elumalai, C. *v.* State of T.N. 1
G.S. Tohra *v.* Union of India 39
Geetinder Kaur *v.* State of Punjab 474
Gokarn ; State of U.P. 41
Govind Singh Rawat ; Savitri 556
Gurnam Singh ; State of Punjab 61
Hareram Satpathy *v.* Premlal Suna 143
Harjinder Singh *v.* State of Punjab 93
Henry Westmuller Roberts *v.* State of Assam 364
Hiralal *v.* State of J & K 140
Ibrahim Bachu Bafan *v.* State of Gujarat 149
Jai Singh *v.* State of J & K 125
Jeet Singh ; State of Rajasthan 139
K. K. Anand ; State 553
K. P. Mohammed *v.* State of Kerala 142
K. Ramanathan *v.* State of T.N. 162
Kailash Chandra Sahu *v.* Republic of India 457
Kamaladevi Chattopadhyay *v.* State of Punjab 37
Kapoor Chand Maganlal Chanderia *v.* Delhi State (Admn.) .. 441
Keisam Kumar Singh *v.* State of Manipur 446
Khilli Ram *v.* State of Rajasthan 24
Lachhman Ram *v.* State of Orissa 263
Lalji Singh *v.* State of U.P. 470
Lalloo ; State of U.P. 478
Lallu Ram *v.* State of U.P. 15
Lok Pal Singh *v.* State of M.P. 400
M.K. Anthony ; State of U.P. 105
Madhu Limaye *v.* Metropolitan Magistrate 148
Mathew Areeparmatil *v.* State of Bihar 160
Meheruddin Sheikh *v.* State of W.B. 241
Mer Arjan Sida *v.* State of Gujarat 54
—— Dhana Sida *v.* State of Gujarat 54
Metropolitan Magistrate ; Madhu Limaye 148
Mithu Bawa Padhiyar *v.* State of Gujarat 149
Mohd. Ahmed Khan *v.* Shah Bano Begum 245
———, K.P. *v.* State of Kerala 142
Mohinder Singh *v.* State (Delhi Admn.) 488

Mohinder Singh *v.* State of Punjab 87
Municipal Corpn. *v.* New Kwality Sweet House 49
Muniyalla ; State of Karnataka 50
Narayan Singh *v.* State of M.P. 460
Narcinva V. Kamat *v.* Alfredo Antonio Doe Martins 274
New Kwality Sweet House ; Municipal Corpn. 49
O.P. Dogra ; State 553
Partap Singh *v.* Director of Enforcement, Foreign Exchange Regulation Act 312
Pattipati Venkaiah *v.* State of A.P. 464
Phota Sheikh ; Sunil Kumar Pal 18
Pokar Ram *v.* State of Rajasthan 297
Prakash Chandra Mehta *v.* Commr. and Secretary, Govt. of Kerala .. 332
Pratibha Rani *v.* Suraj Kumar 180
Premlal Suna ; Hareram Satpathy 143
Puran Mal ; State (Delhi Admn.) 289
Raghunath Vamanrao Baxi ; State of Gujarat 304
Rajbir *v.* State of Haryana 445
Rajesh Kumar *v.* Amrawati Bharti 410
Rajinder Prasad Aggarwal *v.* Chief Metropolitan Magistrate .. 570
Rakesh Kaushik *v.* Delhi Admn. 280
Ram Avtar *v.* State (Delhi Admn.) 415
———— Rai *v.* State of U.P. 156
—— Jethmalani *v.* Union of India 39
—— Kishan ; Chander Kala 491
—— Sagar Yadav ; State of U.P. 127
—— Sumer Puri Mahant *v.* State of U.P. 98
Ramanathan, K. *v.* State of T.N. 162
Ramesh Balkrishna Kulkarni *v.* State of Maharashtra 407
——— Chand *v.* State of U.P. 100
——— Yadav *v.* D.M. 514
Rameshwar *v.* State of U.P. 470
Republic of India ; Kailash Chandra Sahu 457
Sadha Singh *v.* State of Punjab 359
Salimkhan Sardarkhan *v.* State of Gujarat 511
Samaresh Bose *v.* Amal Mitra 523
———— Basu *v.* Amal Mitra 523
Sampat Lal ; State of W.B. 62
Sat Pal ; State of Punjab 141
Satish Chandra ; State of U.P. 508
Savitri *v.* Govind Singh Rawat 556
Shah Bano Begum ; Mohd. Ahmed Khan 245

Shamsher Singh ; State of Rajasthan 421
Sharvan Kumar *v.* State of U.P. 437
Shrishail Nageshi Pare *v.* State of Maharashtra 235
Sowmithri Vishnu *v.* Union of India 325
State *v.* K.K. Anand 553
---- *v.* O.P. Dogra 553
---- (Delhi Admn.) ; Mohinder Singh 488
---------- *v.* Puran Mal 289
---------- ; Ram Avtar 415
---- of A.P. ; Pattipati Venkaiah 464
---- Assam ; Abdul Kadir 501
---------- ; Henry Westmuller Roberts 364
---------- *v.* Sunil Chandra Biswas 364
---- Bihar ; Dhanna Chaudhry 450
---------- ; Mathew Areeparmatil 160
---- Gujarat ; Ibrahim Bachu Bafan 149
---------- ; Mer Arjan Sida 54
---------- ; Mer Dhana Sida 54
---------- ; Mithu Bawa Padhiyar 149
---------- *v.* Raghunath Vamanrao Baxi 304
---------- ; Salimkhan Sardarkhan 511
---- Haryana ; Rajbir 445
---- J & K ; Avtar Singh 126
---------- ; Bhim Singh 60
---------- ; Hiralal 140
---------- ; Jai Singh 125
---- Karnataka *v.* Muniyalla 50
---- Kerala ; K.P. Mohammed 142
---- M.P. *v.* Charli Raja 400
---------- ; Lok Pal Singh 400
---------- ; Narayan Singh 460
---------- ; Sudhir 123
---------- ; Tulsiram 4
---- Maharashtra *v.* Baburao Ravaji Mharulkar 2
---------- ; Ramesh Balkrishna Kulkarni 407
---------- ; Shrishail Nageshi Pare 235
---- Manipur ; Keisam Kumar Singh 446
---- Orissa ; Lachhman Ram 263
---- Punjab *v.* Bhura Singh 33
---------- ; Dalip Singh 486
---------- ; Geetinder Kaur 474
---------- *v.* Gurnam Singh 61

State of Punjab ; Harjinder Singh 93
———— ; Kamaladevi Chattopadhyay 37
———— ; Mohinder Singh 87
———— ; Sadha Singh 359
———— *v.* Sat Pal 141
———— ; Surjit Singh 90
——— Rajasthan ; Bhanwar Lal 91
———— *v.* Jeet Singh 139
———— ; Khilli Ram 24
———— ; Pokar Ram 297
———— *v.* Shamsher Singh 421
——— T.N. ; C. Elumalai 1
———— ; K. Ramanathan 162
——— U.P. *v.* Ballabh Das 452
———— *v.* Gokaran 41
———— ; Lalji Singh 470
———— *v.* Lalloo 478
———— ; Lallu Ram 15
———— *v.* M.K. Anthony 105
———— ; Ram Avtar Rai 156
———— *v.* Ram Sagar Yadav 127
———— ; Ram Sumer Puri Mahant 98
———— ; Ramesh Chand 100
———— ; Rameshwar 470
———— *v.* Satish Chandra 508
———— ; Sharvan Kumar 437
———— *v.* Sukhbasi 387
——— W.B. ; Meheruddin Sheikh 241
———— *v.* Sampat Lal 62
———— *v.* Sudhir Dey 85
Sudhir *v.* State of M.P. 123
——— Dey ; State of W.B. 85
Sukhbasi ; State of U.P. 387
Sumitra Devi *v.* Bhikan Choudhary 145
Sunil Chandra Biswas ; Chabil Prasad Agarwala 364
———— ; State of Assam 364
——— Kumar Pal *v.* Phota Sheikh 18
Suraj Kumar ; Pratibha Rani 180
Surjit Singh *v.* State of Punjab 90
Tohra, G.S. *v.* Union of India 39
Tulsiram *v.* State of M.P. 4
Tusher Govindji Shah *v.* Union of India 135

Union of India ; Amrit Nahata 402
———— *v.* Annam Ramalingam 237
———— ; Asha Keshavrao Bhosale 561
———— ; Bibi Amarjit Kaur 39
———— ; G.S. Tohra 39
———— ; Ram Jethmalani 39
———— ; Sowmithri Vishnu 325
———— ; Tusher Govindji Shah 135
——— Territory of Chandigarh ; Abdul Sattar 505

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Table of cases cited

(The first page number refers to citation of the case in which cited and the second page number where cited)

A.K. Roy *v.* Union of India, (1982) 1 SCC 271, *relied on* 421, 427
referred to 561, 565
A Suggested Solution to the Riddle of Obscenity, (1984) 112 Penn L Rev 834, *cited* 523, 541
Acharya Jagdishwaranand *v.* Commr. of Police, (1983) 4 SCC 522, *followed* .. 160, 162
Akharbhai Nazarali *v.* Mohd. Hussain Bhai, AIR 1961 MP 37, *approved* .. 180, 201
Ashadevi *v.* K. Shiveraj, (1979) 1 SCC 222, *distinguished* 332, 356
Atulya Kumar De *v.* Director of Procurement and Supply, AIR 1953 Cal 548, *approved* 162, 172
Bachan Singh *v.* State of Punjab, (1980) 2 SCC 684, *referred to* 387, 390
Badri *v.* State of U.P., (1975) 4 SCC 609, *relied on* 452, 453
Bai Tahira *v.* Ali Hussain Fidaalli Chothia, (1979) 2 SCC 316, *affirmed* .. 245, 249
Basudeb Patra *v.* Kanai Lal Haldar, AIR 1949 Cal 207, *approved* 180, 201
Bejoy Kumar Routrai *v.* State of Orissa, AIR 1976 Ori 138, *overruled* .. 162, 169
Beni Madhob Shaw *v.* State of W.B., (1974) 3 SCC 481, *relied on* 421, 436
Bhagirath Singh Judeja *v.* State of Gujarat, (1984) 1 SCC 284, *distinguished* .. 297, 303
Bhagwan Dutt *v.* Kamla Devi, (1975) 2 SCC 386, *referred to* 556, 559
Bhagwant Singh *v.* Commr. of Police, (1983) 3 SCC 344, *distinguished* .. 62, 68
Bhai Sher Jang Singh *v.* Virinder Kaur, 1979 Cri LJ 493, *approved* 180, 190
affirmed 180, 190
Bhuban Mohan Das *v.* Surendra Mohan Das, AIR 1951 Cal 69, *cited* .. 180, 217
Bihar State Bullion Merchants' Assn. *v.* Union of India, AIR 1971 Pat 240, *approved* 237, 240
Bishamber Dayal Chandra Mohan *v.* State of U.P., (1982) 1 SCC 39, *relied on* .. 162, 179
Board of Trustees, Port of Bombay *v.* Dilipkumar Raghavendranath Nadkarni, (1983) 1 SCC 124, *referred to* 325, 330
Boucher Pierre Andre *v.* Supdt. Central Jail, (1975) 1 SCC 192, *followed* .. 54, 59
Calcutta Discount Co. Ltd. *v.* I.T.O., (1961) 2 SCR 241, *relied on* 312, 318
Chandrakant Kalyandas Kakodar *v.* State of Maharashtra, (1969) 2 SCC 687, *referred to* 523, 543
Chelloor Mankkal Narayan Ittiravi Nambudiri *v.* State of T.C., AIR 1953 SC 478, *relied on* 180, 200
Commissioner of Commercial Taxes *v.* Ramkishan Shrikishan Jhaver, (1968) 1 SCR 148, *referred to* 312, 320
Commonwealth of Australia *v.* Bank of New South Wales, (1949) 2 All ER 755 (PC), *relied on* 162, 179
Dalchand *v.* Municipal Corporation, (1984) 2 SCC 486, *relied on* 4, 7
Delhi Admn. *v.* Sanjay Gandhi, (1978) 2 SCC 411, *distinguished* 297, 303
Dhan Raj *v.* Municipal Corporation, ILR (1972) 2 Del 681, *cited* 289, 292
Dilip Kumar Rajkhowa *v.* D.M., AIR 1981 Gau 81, *distinguished* 135, 137
Earabhadrappa *v.* State of Karnataka, (1983) 2 SCC 330, *relied on* 387, 389
Food Inspector *v.* Prabhakaran, (1983) 1 FAC 84, *referred to* 4, 7
Frances Coralie Mullin *v.* W.C. Khambra, (1980) 2 SCC 275, *relied on* .. 421, 430
Francis Coralie *v.* Union Territory, (1981) 1 SCC 608, *referred to* 325, 330
Fuzlunbi *v.* K. Khader Vali, (1980) 4 SCC 125, *affirmed* 245, 249
G.B. Singh *v.* Union of India, 1973 Cri LJ 485 (All), *referred to* 222, 232
G.K. Krishnan *v.* State of T.N., (1975) 1 SCC 375, *relied on* 162, 179
Gopal Vinayak Godse *v.* State of Maharashtra, (1981) 3 SCR 440, *reconciled* .. 280, 284
— Singh *v.* State of M P., (1972) 3 SCC 268, *relied on* 127, 132
Gurbaksh Singh *v.* State of Punjab, (1980) 2 SCC 565, *cited* 297, 300
Gurcharan Singh *v.* State (Delhi Admn.), (1978) 1 SCC 118, *distinguished* .. 297, 303
H.L. Sibal *v.* C.I.T., (1975) 101 ITR 112 (P & H), *referred to* 312, 320
Hadibandhu Das *v.* Distt. Magistrate, Cuttack, (1969) 1 SCR 227, *distinguished* .. 332, 352
Hamira Bibi *v.* Zubaida Bibi, AIR 1916 PC 46, *referred to* 245, 259
Har Jas Dev Singh *v.* State of Punjab, (1973) 2 SCC 575, *cited* 421, 436
Harakchand Ratanchand Banthia *v.* Union of India, (1969) 2 SCC 166, *distinguished* 237, 239

Harbans Singh *v.* State of Punjab, 1962 Supp 1 SCR 104, *relied on* 127, 132
Harihar Prasad Dubey *v.* Tulsi Das Mundhra, (1980) 4 SCC 120, *relied on* .. 180, 201
Harikisan *v.* State of Maharashtra, 1962 Supp 2 SCR 918, *distinguished* .. 332, 350
Hasmukh Bhagwanji *v* State of Gujarat, (1981) 2 SCC 175, *relied on* .. 332, 354
I.T.O. *v.* Seth Brothers, (1969) 2 SCC 324, *relied on* 312, 323
Ibrahim Ahmad Batti *v.* State of Gujarat, (1982) 3 SCC 440, *distinguished* .. 332, 353
Ichhu Devi Choraria *v.* Union of India, (1980) 4 SCC 531, *relied on* 421, 427
In Re Ganapati, 1983 Cri LJ 509, *overruled* 1, 2
— — Thompson Case, 6 NWP 205, *cited* 556, 559
Inder Sain *v.* State of Punjab, (1973) 2 SCC 372, *followed* 457, 458
Jagir Kaur *v.* Jaswant Singh, (1964) 2 SCR 73, *relied on* 245, 252
Jagta *v.* State of Haryana, (1974) 4 SCC 747, *relied on* 105, 117
Jaswantrai Manilal *v.* State of Bombay, 1956 SCR 483, *relied on* 180, 201
relied on 180, 211
Jayanarayan Sukul *v.* State of W.B., (1970) 1 SCC 219, *cited* 421, 430
Kailash Vati *v.* Ayodhia Parkash, ILR (1977) 1 P & H 642, *referred to* .. 180, 214
Kanda Swami *v.* Food Inspector, (1982) 1 FAC 322, *referred to* 4, 7
Kartar Singh *v.* State of Haryana, (1982) 3 SCC 1, *overruled* 280, 283
Kashmir Singh Shergill *v.* Union of India, Civil Writ No. 553 of 1974, *referred to* 222, 226
Kashmeri Lal *v.* State of Haryana, (1981) 2 FAC 167, *referred to* 4, 7
Keval Krishan *v.* Suraj Bhan, 1980 Supp SCC 499, *relied on* 93, 96
Khud iram Das *v.* State of W.B., (1975) 2 SCC 81, *relied on* 421, 428
Khusihal Rao *v.* State of Bombay, 1958 SCR 552, *relied on* 127, 132
King Emperor *v.* Khwaja Nazir Ahmed, AIR 1945 PC 18, *approved* 62, 77
— — *v.* Sibnath Banerji, AIR 1945 PC 156, *relied on* 162, 172
Kishan Chand Mangal *v.* State of Rajasthan, (1982) 3 SCC 466, *referred to* .. 24, 32
Krishan Lal Praveen Kumar *v.* State of Rajasthan, (1981) 4 SCC 550, *relied on* .. 162, 179
L.V. Jadhav *v.* Shankarrao Abasaheb Pawar, (1983) 4 SCC 231, *relied on* .. 180, 204
Lila Biswas *v.* State of W.B., (1979) 83 Cal WN 539, *approved* 162, 173
Maharaj Prithvisinghji *v.* State of Bombay, AIR 1960 SC 483, *distinguished* .. 457, 458
Manohar Lal *v.* Union of India, (1971) 1 SLR 717 (P & H), *referred to* .. 222, 233
Maruram *v.* Union of India, (1981) 1 SCC 107, *reconciled* 280, 286
Municipal Corpn. *v.* Kacheroo Mal, (1976) 1 SCC 412, *referred to* 289, 291
— — *v.* Tek Chand Bhatia, (1980) 1 SCC 158, *affirmed* 289, 294
referred to 289, 294
— — of the City of Toronto *v.* Virgo, LR (1896) ACC 88 (PC), *referred to* .. 162, 177
Nagawwa *v.* Veeranna Shivalingappa Konjalgi, (1976) 3 SCC 736, *applied* .. 180, 204
Nanmal Partap Mal Shah *v.* Union of India, (1980) 4 SCC 427, *distinguished* .. 332, 352
Nanak Chand *v.* Chandra Kishore Agarwala, (1969) 3 SCC 802, *relied on* .. 245, 252
Nanalal Navalnathji Yogi *v.* Collector of Bulsar, AIR 1981 Guj 87, *approved* .. 162, 169
Nand Lal Bajaj *v.* State of Punjab, (1981) 4 SCC 327, *distinguished* 135, 138
relied on 421, 433
Narendra Kumar *v.* Union of India, (1960) 2 SCR 361, *relied on* 162, 175
Narkeklange Roller Flour Mills *v.* Corpn. of Calcutta, 1973 FAC 257, *affirmed* .. 289 290
New Central Jute Mills Co. Ltd. *v.* T.N. Kaul, AIR 1976 Cal 178, *overruled* .. 312, 320
referred to .. 312, 320
Pala Singh *v.* State of Punjab, (1972) 2 SCC 640, *followed* 41, 48
Perumal *v.* Kumbakonam Municipality, (1982) 2 FAC 106, *referred to* .. 4, 7
Pett *v.* Greyhound Racing Assn. Ltd., (1969) 1 WB 125, *cited* 561, 569
Piara Singh *v.* State of Punjab, (1977) 4 SCC 452, *relied on* 105, 117
Pooran Mal *v.* Director of Inspection, (1974) 1 SCC 345, *relied on* 312, 322
affirmed .. 312, 322
Parkash Chand *v.* State (Delhi Admn.), (1979) 3 SCC 90, *referred to* 24, 32
Pritam Singh *v.* State of Punjab, AIR 1956 SC 415, *relied on* 446, 450
Queen *v.* Hicklin, 1868 LR 3 QB 360, *cited* 523, 540
— *v.* Read, 11 Mod 205 QB, *cited* 523, 540
R. *v.* Penguin Books Ltd., Criminal Law Review, 1961, *referred to* 523, 546
R.S. Nayak *v.* A.R. Antulay, (1984) 2 SCC 183, *followed* 407, 408
R.S. Seth Gopikrishan Agarwal *v.* R.N. Sen, (1967) 2 SCR 340, *relied on* .. 312, 319
Radhakishan *v.* State of U.P., 1963 Supp 1 SCR 408, *relied on* 312, 322
distinguished 457, 458
Raghbir Singh *v.* State of Punjab, (1976) 1 SCC 145, *relied on* 24, 32
Raisuddin *alias* Babu Tamchi *v.* State of U.P., (1983) 4 SCC 537, *followed* .. 421, 431
Ram Prakash Arora *v.* State of Punjab, (1972) 3 SCC 652, *relied on* 24, 27
Ramanlal Purshottamdas *v.* Union of India, (1973) 14 Guj LR 112, *approved* .. 237, 240
Ranjit D. Udeshi *v.* State of Maharashtra, (1965) 1 SCR 65, *referred to* .. 523, 539
S.N. Sharma *v.* Bipen Kumar Tewari, (1970) 1 SCC 653, *relied on* 62, 78

S. Narayanappa *v.* C.I.T., (1967) 1 SCR 590, *relied on* 312, 318
Sahoo *v.* State of U.P., (1965) 3 SCR 86, *relied on* 105, 117
Samuel Roth *v.* U.S.A., 354 US 476, *cited* 523, 542
Santosh Kumar Jain *v.* State, 1951 SCR 303, *relied on* 162, 171
Sarwan Singh Rattan Singh *v.* State of Punjab, 1957 SCR 953, *referred to* .. 364, 372
Shalini Soni *v.* Union of India, (1980) 4 SCC 544, *relied on* 332, 354
Slattery *v.* Nalyor, LR (1888) 13 AC 446, *referred to* 162, 177
State *v.* Jagjit Singh, (1962) 3 SCR 622, *distinguished* 297, 303
— of A P. *v.* Vallabhapuram Ravi, (1984) 4 SCC 410, *followed* 1, 1
— — Bihar *v.* Basawan Singh, 1959 SCR 195, *referred to* 24, 27
— — — *v.* J.A C. Saldanha, (1980) 1 SCC 554, *relied on* 62, 78
— — Gujarat *v.* Chamanlal Manjibhai Soni, (1981) 2 SCC 24, *distinguished* .. 332, 356
— — — *v.* Jaswantlal Nathalal, (1968) 2 SCR 408 *relied on* 180, 202
— — Kerala *v.* Alasserry Mohd., (1978) 2 SCC 386, *fallowed* 49, 50
followed 141, 141
— — Maharashtra *v.* Natwarlal Damodardas Soni, (1980) 4 SCC 669, *relied on* .. 312, 322
— — — *v.* Tukaram Babu Rao Mane, (1982) 1 FAC 398, *referred to* 4, 7
— — Mysore *v.* H. Sanjeeviah, (1967) 2 SCR 361, *limited* 162, 175
— — Punjab *v.* Bhajan Singh, (1975) 4 SCC 472, *relied on* 105, 117
— — — *v.* Jagdev Singh Talwandi, (1984) 1 SCC 596, *relied on* .. 421, 435
— — T.N. *v.* Hind Stone, (1981) 2 SCC 205, *relied on* 162, 178
— — U.P. *v.* Suraj Bhan Pande, AIR 1972 All 401, *overruled* 162, 169
— — W.B. *v.* S.N. Basak, (1963) 2 SCR 52, *relied on* 62, 77
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Suknlal Hansda *v.* State of W.B., WP (Cri) 1128-29 of 1982, *distinguished* .. 280, 283
Supdt. and Remembrancer of Legal Affairs *v.* S.K. Roy, (1974) 4 SCC 230, *relied on* 180, 202
Suraj Mal Kailash Chand *v.* Union of India, (1981) 4 SCC 554, *relied on* .. 162, 179
Surat Singh *v.* Chief Engineer Projects (Beacon), AIR 1970 J & K 179, *referred to* 222, 233
Surinder Mohan *v.* Kiran Saini, 1977 Chandigarh LR 212 (P & H), *overruled* .. 180, 190
Sushil Kumar Gupta *v.* Joy Shanker Bhattacharjee, (1970) 1 SCC 504, *relied on* .. 180, 202
Syed Sabir Husain *v.* Farzand Hasan, AIR 1938 PC 80, *referred to* 245, 259
Tarakdas Mukherjee *v.* State of W.B., (1978) 2 Cal LJ 383, *approved* 162, 173
V.C. Shukla *v.* State (Delhi Admn.), (1980) 2 SCC 665, *referred to* 402, 405
Vakil Singh *v.* State of J & K, (1975) 3 SCC 545, *cited* 421, 436
Velji Raghavji Patel *v.* State of Maharashtra, (1975) 2 SCR 429, *relied on* .. 180, 194
Vinod Kumar Sethi *v.* State of Punjab, AIR 1982 P & H 372, *approved* .. 180, 187
overruled .. 180, 187
Wasiuddin Ahmed *v.* District Magistrate, Aligarh, (1981) 4 SCC 521, *distinguished* 561, 567
referred to 561, 567
Yusuf Abdul Aziz *v.* State of Bombay, 1954 SCR 930, *followed* 325, 331

Corrigenda

1984 SCC (Cri)

†1. At page 629, para 6, line 3, *for* "full bench" *read* "Constitution Bench".

*2. At page 629, line 25, *delete* "the".

†3. At page 629, line 30, *for* "detention" *read* "detaining".

†*4. At page 629, line 31, *for* "of course, at the present law stands if one of the orders. . . " *read* "of course, as the present law stands if one of the grounds . . .".

*5. At page 630, line 23, *for* "it would be applicable" *read* "Section 5-A would be applicable,".

*6. At page 631, line 21, *for* "tempo and current of life" *read* "tempo of the life".

*7. At page 633, lines 10 & 11, *for* "such conducts if true are not of such nature which could possibly endanger 'public order'. The incident alleged is to have happened. . ." *read* "such conducts, if true, are not of such nature as could possibly endanger 'public order'. The incident was alleged to have happened. . .".

1985 SCC (Cri)

1. At page 177, para 21, line 1 *for* 'In context' *read* 'In contrast';

2. At page 337, line 10 *for* the word 'complexity' *read* 'complicity';

3. At page 358, line 4 from the bottom *for* 'are to ensure' *read* 'have to be ensured'.

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† *Vide* F. 7/Ed. B.J./84/36 dt. 8-10-1984.
* *Vide* F. 7/Ed. B.J./84/38 dt. 16-11-1984.

JOURNAL SECTION

1985 SCC (Cri)

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SOCIAL INVESTIGATION AND DISPOSITION OF CASES UNDER THE CHILDREN ACT, 1960 — AN APPRAISAL

by

T.D. SETHI*

Disposition of cases under the Children Act, 1960[1] involves the method of first diagnosis and then treatment. The causes of child neglect or delinquency can be traced not merely in the life of the individual child but in his relationship with the family, in the school and in the community at large. The relative influence of the home, the school and the community on the development of personal character has, therefore, to be weighed. The probation officer's probe in the background helps in diagnosing the causes of the emotional and social aberrations of the child. It gives the history of the problem and indicates the possible way the child could be weaned away from the destructive influences and brought back to normal life. Therefore, a social investigation report from the probation officer regarding the social and economic conditions, family background and personality make up of the child is also taken into consideration while disposing of the cases under the Act.[2]

A. Social Investigation

The Probation Officer appointed under the Act,[3] is under a duty to subject the child to case-work enquiries and conduct social investigations of the child's home, school and place of work etc.[4] He is to establish a rapport with the child by repeated interviews[5] and to try to find out the roots of the child's specific problem or difficulty and to furnish his own reaction to it. The probation officer shall thus be able to bring together the various aspects of the child's personality and present a comprehensive co-ordinated picture. On the basis of the facts gathered, he is to prepare a full case history including the child's own story and suggest a diagnostic analysis of the child's character and circumstances. The report is not only required to present factual data in respect of the child, his family and his social environment but is also supposed to recommend measures for future guidance, care and treatment. It is made clear that the scope of the recommendations is to relate only to treatment and not to finding of guilt.[6]

* LL.M. (Delhi), Lecturer, Faculty of Law, University of Delhi, Delhi.

1. Hereinafter referred to as the Act.
2. Section 33 of the Children Act, 1960 and Rule 23 of the Delhi Children Rules, 1961.
3. *Id.*, Section 53.
4. *See* the duties of the probation officer under Section 53(2)(*a*) of the Children Act, 1960 and Rule 27(2)(*i*) of the Delhi Children Rules, 1961.
5. *Id.* Section 53(2)(*b*) and Rule 27(2)(*iv*).
6. *Id.* Rule 27(1) and Form IX appended to the Rules.

Justice demands that the court in its finding of guilt should depend only on the evidence put forth and ought not be prejudiced by the opinion of the probation officer. Mannheim also has suggested that the court may be given discretion to postpone the consideration of social investigations till formal proof of guilt is secured.[7] Although in the case of neglected children the probation officer's report may be admitted before the child's status as a neglected child is determined, but in the case of young offenders the report should be consulted only after determination of the guilt. The Act in fact has made a specific provision to that effect.[8]

The advantages of the probation officer's report are manifold. A probation officer can gain much information in a friendly and informal manner which will be quite relevant to the child's need for help. Valuable and important information sometimes is lost because many witnesses do not come forward out of fear of court or police harassment and the time they have to spend for presenting themselves in the court. Moreover, the necessity of producing all the witnesses in the court gives greater publicity to the child's problem and introduces a formal element in the proceedings which hinders the healthy process of rehabilitation.

The hazards of mistake or prejudice in the case report, on the other hand, far outweigh its advantages. There is no gainsaying the fact that people are more inclined to give damaging statements to a probation officer than to testify them in court when facing the child with his legal representative. The use of the report places great reliance on the professional judgment and integrity of the probation officer. But the probation officer may, in certain cases, be prejudiced against the child or his family, or on account of his inefficiency his report may not be as revealing or factual. All the same the probation officer's investigation reports, which have at times to be 'strengthened and supplemented by clinical and psychological investigation', are very important part of dispensation of juvenile justice, since it is upon the results of such investigations that the possibility of enlightened treatment depends.[9] Social investigations and personal assessment are taken into consideration for determining the disposition method most suitable to the child's requirements — an element indispensable for the dispensation of individualised justice.[10] The value of social investigations lies in differentiating the child from other children in personality and his particular potentialities for reform or recidivism.[11]

Social investigation reports of the probation officer, in order to be of pragmatic value, should indicate concisely and accurately the family and personal background of the offender pointing out his weak points and recommend how best he can be treated instead of merely doing a 'lip service' to the 'multicausation theory'.[12] The weak points of delinquents make them susceptible to deleterious influences as well as render them amenable to easy and quick treatment. These danger signals need to be stressed in the report to enable the court to come to the right conclusion regarding the disposition

7. Hermann Mannheim, "*The Juvenile Court: Its Procedure*", Lawless Youth, 62 (1947).
8. First proviso to Section 33.
9. See *A Report on Juvenile Delinquency in India*, 103 (1956) (Bureau of Delinquency Statistics and Research, Bombay).
10. Max Grunhut, *Penal Reform*, 153 (1948).
11. S. Glueck, *Crime and Correction*, 167-181 (1952).
12. Peter D. Scott, "*Psychiatric Reports for Magistrates' Courts*", 4 British Journal of Delinquency, 82-98 (1953-54).

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