Reserved on 17.12.2024
Delivered on 24.01.2025

Court No. 10

Case :- CRIMINAL APPEAL No. - 2174 of 2024
Appellant :- Shailendra Yadav @ Salu
Respondent :- State Of U.P Thru. Prin. Secy. Home Lko.
Counsel for Appellant :- Eshan Kumar Gupta
Counsel for Respondent :- G.A.
AND
Case :- CRIMINAL APPEAL No. - 2179 of 2024
Appellant :- Abhisek @ Abhishek Yadav @ Putan
Respondent :- State Of U.P. Thru. Prin. Secy. Home Lko.
Counsel for Appellant :- Eshan Kumar Gupta
Counsel for Respondent :- G.A.

Hon'ble Vivek Chaudhary, J.
Hon'ble Karunesh Singh Pawar, J.
Hon'ble Mohd. Faiz Alam Khan,J.

[Delivered by Hon'ble Mohd. Faiz Alam Khan, J.]

1. Heard S/Shri Avinash Singh Vishen, Prashant Kumar Srivastava, assisted by Ankit Baranwal and Ankit Gautam, S.M. Singh Royekwar, assisted by Sumeet Tahilramani and Eshan Kumar Gupta, Ms. Saumya Singh, Vaibhav Srivastava, Saksham Agarwal against the Reference and S/Shri I.B. Singh assisted by Nischal Verma, Nadeem Murtaza assisted by Shubham Tripathi, Harsh Vardhan Kediya, Wali Nawaz Khan and Ms. Snigdha Singh, Ishan Baghel, Vikas Vikram Singh assisted by Shri Naved Ali, Yash Bhardwaj, Rajat Gangwar, Anand Kumar, Vivek Bhushan Gupta, Saurabh Upadhyay, Skand Bajpai Ms. Swati Singh, Abhinav Srivastava and Mayuresh Srivastava, as well as Dr. V. K. Singh, learned Government Advocate assisted by Anurag Varma, AGA-I, G.D. Bhatt, AGA-I, Pawan Kumar Mishra, AGA, Ajit Singh and Ms. Rani Singh, Brief Holders, Anupam Mehrotra, Aishvarya Mathur, Shreshth Srivastava, Sandeep Yadav, Ashutosh Kumar Shukla and Ayusth Tandon in support of the Reference.

2. The judgment/order of reference dated 09.08.2024 has been passed by the learned Single Judge of this Court while dealing with the afore-placed criminal appeals, taking a divergent view from the one

expressed by the Division Bench of this Court in Criminal Appeal No.3603 of 2019 (Teja Vs. State of U.P. and another) wherein the Division Bench of this Court has held that where a person has been acquitted of the offences under the provisions of The Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the 'Act of 1989') but convicted under the provisions of The Indian Penal Code, 1860 (hereinafter referred to as the 'IPC') then an appeal shall lie under The Code of Criminal Procedure, 1973 (hereinafter referred to as the 'CrPC') and not under the Act of 1989

3. The learned Single Judge is of the view that even if an accused person has been acquitted of the offences under the Act of 1989, the appeal shall lie under Section 14-A of the Act of 1989 and also of the view that the correctness of the Division Bench order in the case of *Teja Vs. State of U.P. and another* (supra) needs to be considered by a Larger Bench of this Court and, thus, framed the following questions for consideration by a Larger Bench:-

> *"(I) What would be the remedy available to a person who may have been acquitted of the offences under the provisions of the Act, 1989 but convicted for offences under the provisions of IPC i.e. whether to file an appeal under the provisions of the Code or an appeal under the provisions of Section 14A(1) of the Act, 1989 when the judgment is by a Special Court or an Exclusive Special Court?*
> *And*
> *(II) Whether the Division Bench in it's order in the case of Teja (supra) has correctly held that in case a person has been acquitted of the charges of offences under the Act, 1989 then he can file an appeal under the provisions of the Code even though when the judgment is of the Special Court or an Exclusive Court?*

4. Hon'ble Chief Justice vide order dated 20.08.2024 constituted this Larger Bench for considering the above questions framed by the learned Single Judge.

5. Before we deal with the questions, which have been referred for our consideration, it would be relevant to make a brief reference to the background facts, in furtherance of which reference has been made by the learned Single Judge in Criminal Appeal No.2174 of 2024 (Shailendra Yadav @ Salu Vs. State of U.P.) and Criminal Appeal

No.-2179 of 2024 Abhisek @ Abhishek Yadav @ Putan vs State Of U.P.

6. Perusal of the record would reveal that in both the above criminal appeals the appellants were acquitted of the offences under the Act of 1989 but were convicted under the provisions of the IPC and both the above criminal appeals were preferred by the appellants under section 374 CrPC.

7. The learned Single Judge, after noticing the scheme of the Act of 1989, as enshrined in its statement of objects and reasons, Sections 2 (bd), 2(d), 14, 14-A, 20 of the Act of 1989 and Sections 4 and 5 CrPC and also considering the non obstante clause contained under Section 14-A(1) of the Act of 1989 and other legal precedents, came to a conclusion that keeping in view the provisions of Sections 14-A and 20 of the Act of 1989 and Sections 4 and 5 of the CrPC, the correctness of the Division Bench order in the case of *Teja Vs. State of U.P. and another* (supra) needs to be considered by the Larger Bench.

8. We have not only heard counsels appearing for the parties in the petitions and connected bail applications, but have also invited members of the Bar by passing a judicial order to address us on the questions; accordingly, a large number of lawyers came forward to address the Court.

9. Learned counsels, arguing on behalf of the appellants and against the reference, submit that the Act of 1989 has been enacted for the purpose of providing special treatment to the members of the scheduled castes and scheduled tribes as they are subjected to various offences, humiliation and harassment and, for this purpose, Special Court and Exclusive Special Court have been created for exclusively trying the offences under the Act of 1989 and once an accused person has been acquitted of the offences, under the Act of 1989, he cannot be subjected to arbitrariness and an unequal treatment by restraining such person to file appeal only under Section 14-A of the Act of 1989 and his appeal would be preferred under the provisions of the CrPC. It is also submitted that a harmonious construction is required to be

given to the various provisions contained in the Act of 1989 in order to achieve its objective. It is further submitted that the jurisdiction of the Special Court, as provided under Section 14 of the Act of 1989, is only for the purpose of taking cognizance and trying the offences under that Act and despite the non obstante clause occurring under Section 14-A of the Act of 1989, in the eventuality of acquittal of an accused person for an offence under the Act of 1989, he cannot be compelled to file an appeal under Section 14-A of the Act of 1989. It is further submitted that having regard to the powers of the appellate Court while hearing an appeal against conviction, appellant could not be convicted by the appellate Court under the offences of Act of 1989 wherein he has been acquitted by the trial Court in absence of any appeal against such acquittal and, thus, complying with the provisions contained under Section 15-A (3) of the Act of 1989 would be futile.

10. It is further submitted that once an accused person has been acquitted of the charges framed under the offences prescribed under the Act of 1989, why he should be compelled to adhere to a procedure whereby his release on bail may take a long time due to the formalities of serving of notice upon the victim of the crime or his dependent as contained under Section 15-A (3) of the Act of 1989. It is also argued that when an accused of the offences stated under the Act of 1989 may avail the remedy of anticipatory bail despite the bar contained under Section 18 of the Act of 1989 where prima facie no case is emerging under the Act of 1989, why an accused person be relegated to file an appeal under Section 14-A of the Act of 1989 despite his acquittal in the offences under the Act of 1989. It is highlighted that there is no provision under the Act of 1989 for filing revision of an order passed by the trial Court.

11. Much emphasis has been given by learned counsels arguing against the Reference on the phrase ‘offences under this Act’ occurring under Section 2(bd) of the Act of 1989 in order to canvass that when an accused person has been acquitted of the offences under the Act of 1989, there are no more offences under the Act of 1989 and

the victim shall lose its character of a victim under the Act of 1989 and the trial Court shall also be devoid of its character as Special Court or Exclusive Special Court and, thus, an appeal in such cases will lie under the relevant provisions of the CrPC.

12. It is also highlighted that if an appeal will lie under Section 14-A of the Act of 1989, the benefit of probation could not be extended by virtue of a bar contained under the Act of 1989 in appropriate cases. It is also submitted that interpretation of the Act of 1989 must be made in consonance with Articles 14 and 21 of the Constitution of India and also the interpretation of non obstante clause is to be made in consonance with the provisions and scheme of the Act of 1989.

13. Learned counsels arguing against the Reference and in support of the appeals have relied on the following case-laws:-

1. Prathvi Raj Chauhan V UOI and Ors. (2020) 4 SCC 727
2. Ramawtar v. MP (2022) 13 SCC 635
3. Raj Shri Agarwal @ Ram Shri Agarwal & Qnr. vs. Sudheer Mohan & Ors. (Civil Appeal no. 7266 of 2022
4. Patan Jamal Vali v state of AP 2021 16 SCC 225
5. Shashikant Sharma & Ors. v state of UP & Anr. (2023) SCC OnLine SC 1599
6. Radheshyam v. state of Bihar Criminal Appeal No. 587 of 2021
7. Annamalai & Anr. v. State of TN criminal appeals no. 535 of 2019
8. Rajesh Kumar @ Lachchu v. state of HP Cr App No. 234 of 2020
9. Ram Prasad Dhakad v. state of MP cr App no. 5419 of 2023
10. Attorney General v. Prince Earnest Augustus of Hanover (1957) 1 ALLER 49
11. Union of India v. Elphinstone Spinning & Weaving Corporation & Ors. (2001) 4 SCC 139
12. Commisioner of Income tax v. Hindustan Bluk carriers (2003) 3 SCC 57
13. Badrinath v. Government of TN (2000) 8 SCC 395
14. State of Punjab v. Davinder Singh (2011) 14 SCC 770
15. Associated Cement Co.Ltd. v. Keshvanand (1998) 1 SCC 687
16. H.T.H. v. state of Karnataka & Ors. (2022) 6 SCR 1108
17. Amit Kapoor v. Ramesh Chander & Anr (2012) 9 SCC 460
18. R. Deenbandhu & Ors. v. State of Andhra Pradesh AIR 1977 SC 1335
19. West Bengal v. Anvar Ali Sarkar AIR 1952 SC 75
20. CS Ratna Rao v. AS Guram (1986) 4 SCC 447

21. AG V v. state of TN (1998) 4 SC 231
22. Central Bank of India v. State of Kerala & Ors. (2009) 4 SCC 94
23. Utkal Contractors & Ors. v. State of Orissa & Ors. (1987) 3 SCC 279
24. Ajitsinh Arjunsinh Gohil v. Bar Council of Gujarat & Anr. (2017) 5 SCC 465
25. State of Gujarat & Anr. v. Justice RA Mehta & Ors. (2013) 3 SCC 1
26. Vilas Pandurang Pawar & Anr. v. State of Maharashtra & Ors. (2012) 8 SCC 795
27. Shaajan Sakaria v. state of Kerala (2024) SCC Online SC 2249
28. In Re Provision of Sec 14A Amendment Act 2015, (2018) SCC Online ALL 2087
29. Ghulam Rasool Khan v. state of UP (2022) SCC Online All 975
30. Teja v. state of UP criminal appeal no. 3603/2019
31. Narain trivedi v. state of UP (2009) SCC Online All 30
32. S Seshachalam v. Bar Council of Tamil Nadu (2014) 16 SCC 72
33. State of Rajasthan v. Shankar Lal Parmar (2011) 14 SCC 235
34. NT Shah v. UOI (2018) 11 SCC 1
35. Delhi administration v. Ram Singh AIR 1962 SC 63
36. FB Venkateswaran & Ors. v. PB (2023) 11 SCC 182
37. HS Kasinath v. state of Maharashtra (2018) 6 SCC 454
38. Secretary Regional Transport Authority v. DP Sharma AIR 1989 SC 509
39. B Prabhakar Rao & Ors. v. state of AP 1985 (Supp) SCC 432
40. District Mining Officer & Ors. v. Tata Iron and Steel (2001) 7 SCC 358
41. KP Verghese v. IT Officer AIR 1981 SC 1922
42. Hitesh Verma v. Uttarakhand (2020) 10 SCC 710
43. Saiyad Mohammad v. Abdulhabib (1998) 4 SCC 343
44. Devendra Yadav v. UP A.482 no. 11043 of 2023
45. UoI v. state of Maharashtra AIR (2019) SC 4917
46. HB v. Satyanarayan (2021) SCC OnLine SC 1010
47. MijajiLal v. state of UP (2009) SCC OnLine All 130
48. S.P. Jain Vs. M.K. Gupta AIR 1987 SC 222

14. Learned arguing counsels in support of the Reference submit that the Parliament has enacted the Act of 1989 with a view to check and deter crimes against the persons belonging to scheduled castes and scheduled tribes and the Act of 1989 was amended in the year 2015 and was made more victim-centric and the emphasis was given to

empower the victims of the alleged offences under the Act of 1989 so as to enable them to participate at every stage of the proceedings and it is in this background Section 14-A of the Act of 1989 was inserted. It is also highlighted that major changes which were brought by the amendment are i.e. the creation of Exclusive Special Courts providing for the definition of a victim and provisions of appeal by inserting Section 14-A of the Act of 1989 as well as providing opportunity to the victim or his/her dependent under Section 15-A of the Act of 1989 in order of their participation at every stage of the proceedings.

15. It is further submitted that appeal is a creation of Statute and when an Act has provided a specific forum for filing of appeal, the said course could not be diverted only on account that the appellant may face some hardships. It is further submitted that Section 14-A of the Act of 1989 specifically provides that appeal from any judgment, sentence or order, not being an interlocutory order, of a Special Court or an Exclusive Special Court to the High Court both on facts and law and keeping in view that Section 14-A of the Act of 1989 is starting with non-obstante clause, the CrPC would have no applicability insofar as the filing of appeals in such cases are concerned. In this regard Section 20 of the Act of 1989 has also been highlighted in order to show that by virtue of this section the provisions of the Act of 1989 shall have effect notwithstanding anything inconsistent contained in any other law for the time-being in force and, thus, the appeal in cases where the accused person has been acquitted of the offences under the Act of 1989 would lie under Section 14-A of the Act of 1989.

16. It is also highlighted that when the words in Statute are clear, plain and unambiguous and capable of drawing only one meaning, then the courts are bound to give effect to the said meaning, irrespective of the consequences and the intention of the Legislature must be respected.

17. Learned counsels arguing for the Reference and against the appeals have relied on the following case-laws:-

1. Teja v. State of UP & Anr. Criminal Appeal No. 3603/2019

2.Upadhyay Hargobind Devshanker v. Dhirendra Singh Virbhadra Snhji Solanki (1988) 2 SCC 1
3. Fuerst Day Lawson Ltd vs. Jindal Exports Ltd. (2011) 8 SCC 333
4. Provision of Sec 14A of SC/ST Act, In Re 2018 SCC Online All 2087
5. Ghulam Rasool Khan & Ors. v. State of U.P. Criminal Appeal No. 1000/2018 2022 SCC OnLine All 975
6. Moly v. State of Kerala (2004) 4 SCC 584
7. Commisioner of Customs v. Dilip Kumar & Co. (2018) 9 SCC 1
8. CCE v. Bhalla Enterprises (2005) 8 SCC 308
9. State of Gujarat v. Salimbhai Abdulgaffar Shaikh (2003) 8 SCC 50
10. State of Bihar v. Bihar Rajya MSESKK Mahasangh (2005) 9 SCC 129
11. JIK Industries Ltd. v. Amarlal Jumani (2012) 3 SCC 255
12. UOI v. GM Kokil 1984 Supp SCC 196
13. State of Gujarat v. Sonu Mangli Prasad Vishwakarma Criminal Miscellaneous Application No. 16335 of 2023
14. Chandra vs State of UP Criminal Miscellaneous Bail Application No. 8192 of 2024
15. Isha and Shanti v. State of UP Criminal Miscellaneous Bail Application No. 8751 of 2024
16. Sunil Singh & ors. v. State of UP & another Criminal Appeal No.4024/2023
17. Satyendra & Anr. v. State of UP Criminal Miscellaneous Bail Application No. 38755/2017
18. VC Chinappa Goudar v Karnataka State Pollution Control Board (2015) 14 SCC 535
19. Nathi Devi v. Radha Devi Gupta (2005) 2 SCC 271
20. UOI v. Hansoli Devi (2002) 7 SCC 273
21. Rekha Murarka v. State of West Bengal (2020) 2 SCC 474
22. Dhanraj N Aswani v. Amarjeet Singh & Ors. (2023) SCC Online SC 991
23. State of Karnataka v Appa Balu Ingale AIR 1993 SC 1126
24. Sheo Charan v Nawal (1997) 2 UPLBEC 1215
25. D N Taneja v. Bhajan Lal (1988) 3 SCC 26
26. Banwari Lal & Sons v. UOI AIR 1981 Del 366
27. Commisioner IT Patiala & ors. v. Shzada Nand 1966 SCC Online SC 24
28. CTO Rajasthan v. Binani Cement Ltd & Ors. 2014 (8) SCC 319
29. Dilawar Singh v. Parvinder Singh @ Iqbal Singh 2005(12) SCC 709
30. Vishwa Mitter of m/s Vijay Bharat Ciggerate Stores Dalhousie road Pathankot v. OP Poddar & Ors. 1983 (4) SCC 701
31. UOI v. Exide Industries 2020 (5) SCC 274

32. NCB v. Kishanlal & Ors 1991 (1) SCC 705.
33. Emperor Vs. Benoari Lal Sharma AIR 1945 PC 48
34. A.K. Gopalan Vs. State of Madras AIR 1950 SC 27
35. Keshavan Madhav Menon Vs. State of Bombay AIR 1951 SC 128
36. Basavaraj R. Patil Vs. State of Karnataka (2000) 8 SCC 740
37. Union of India Vs. Rajiv Kumar (2003) 6 SCC 516
38. National Insurance Co. Vs. Nicolleta Rohtagi (2002) 7 SCC 456
39. P.S. Sathappan Vs. Andhra Bank Ltd. (2004) 11 SCC 672
40.Upadhyaya H. Devshanker Vs. D.V. Solanki (1988) 2 SCC 1
41. Bhikaji Narain Dhakras Vs. State of M.P. AIR 1955 SC 781
42. State of U.P. Vs. Synthetics & Chemicals Ltd. (1991) 4 SCC 139
43. M.S.M Sharma Vs. Shri Krishna Sinha AIR 1959 SC 359
44. Govt. of India Vs. Workmen of State Trading Corporation (1997) 11 SCC 641
45. Madhav Rao Scindia Vs. Union of India (1971) 1 SCC 85
46. Bank of India Vs. K. Mohandas (2009) 5 SCC 313
47. Sarva Shramik Sanghatana (KV) Vs. State of Maharashtra (2008) 1 SCC 494
48. Shivdeo Singh Vs. State of Punjab AIR 1963 SC 1909

18. Before proceeding further, it is desirable to have a glance on the relevant provisions of Act of 1989.

19. Section 2(bb),2(bd) and 2(d) of the Act, 1989 read as under:-

2(bb) "dependent" means the spouse, children, parents, brother and sister of the victim, who are dependent wholly or mainly on such victim for his support and maintenance;
Section 2(bd). "Exclusive Special Court means the Exclusive Special Court established under sub-section (1) of section 14 exclusively to try the offences under this Act;
2d. "Special Court means a Court of Session specified as a Special Court in section 14.

20. Section 14 of the Act, 1989 reads as under:-

***Section 14. Special Court and Exclusive Special Court**.-*
(1) For the purpose of providing for speedy trial, the State Government shall, with the concurrence of the Chief Justice of the High Court, by notification in the Official Gazette, establish an Exclusive Special Court for one or more Districts:
Provided that in Districts where less number of cases under this Act is recorded, the State Government shall, with the concurrence of the Chief Justice of the High Court, by notification in the Official Gazette, specify for such Districts, the Court of Session to be a Special Court to try the offences under this Act:

Provided further that the Courts so established or specified shall have power to directly take cognizance of offences under this Act.

(2) It shall be the duty of the State Government to establish adequate number of Courts to ensure that cases under this Act are disposed of within a period of two months, as far as possible.

(3) In every trial in the Special Court or the Exclusive Special Court, the proceedings shall be continued from day-to-day until all the witnesses in attendance have been examined, unless the Special Court or the Exclusive Special Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded in writing:

Provided that when the trial relates to an offence under this Act, the trial shall, as far as possible, be completed within a period of two months from the date of filing of the charge sheet.

21. Section 14A of the Act of 1989, reads thus:-

"14A. Appeals. – (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an appeal shall lie, from any judgment, sentence or order, not being an interlocutory order, of a Special Court or an Exclusive Special Court, to the High Court both on facts and on law.

(1.1) Notwithstanding anything contained in sub section (3) of section 378 of the Code of Criminal Procedure, 1973 (2 of 1974), an appeal shall lie to the High Court against an order of the Special Court or the Exclusive Special Court granting or refusing bail.

(3) Notwithstanding anything contained in any other law for the time being in force, every appeal under this section shall be preferred within a period of ninety days from the date of judgment, sentence or order appealed from:

Provided that the High Court may entertain an appeal after the expiry of the said period of ninety days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of ninety days:

Provided further that no appeal shall be entertained after the expiry of the period of one hundred and eighty days.

(4) Every appeal preferred under sub-section (1) shall, as far as possible, be disposed of within a period of three months from the date of admission of the appeal."

22. A comparison of the aforesaid provisions goes to indicate that the legislation did not confine to the constitution of Special Courts and exclusive Special Courts for the purpose of providing of speedy trial but also directed the State Government to establish adequate numbers

of Courts to ensure that the cases under this Act are disposed of within a period of 02 months as far as possible. The special provision was made to conduct the proceedings on a day-to-day basis unless for reasons recorded in writing by the Special Court or the exclusive Court for granting adjournment. The proviso to Section 14 Sub-section 1 directed the State Government, after having concurrence of the Hon'ble Chief Justice of the High Court, to notify the Court of Sessions under the District to be a Special Court to try the offence under this Act. The second proviso prescribed that the Courts established or specified under the Act have been conferred jurisdiction to directly take cognizance of the offences under this Act.

23. It is also reflected that due to the amendments made in amended Section 14 of the Act, the police is now required to transmit the FIR, after its registration to the Special Court or Exclusive Special Court, as a Court of original jurisdiction, and for the same reason, the charge-sheet or a complaint is now also required to be filed before Special Court or Exclusive Special Court for the offences under the Act of 1989. It is also evident that a Magistrate, being not a Special Court or Exclusive Special Court within the meaning of Section 14 of the Act, shall not have any jurisdiction to entertain any application and take cognizance of any offence under the Act of 1989 and the formality of committal proceeding, under Section 209 of the CrPC, has also been done away. Evidently the object behind doing so is to enable speedy and expeditious disposal of the cases pertaining to such offences.

24. Section 15A, which comes under Chapter IV-A of the SC/ST Act titled 'Rights of victims and witnesses', was introduced by way of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015, which came into effect on 26 January 2016. The Statement of Objects and Reasons that accompanied the insertion of Chapter IV-A reads as follows:-

> *"(h) to insert a new Chapter IVA relating to "Rights of Victims and Witnesses" to impose certain duties and responsibilities upon the State for making necessary arrangements for protection of victims, their dependents and witnesses against*

any kind of intimidation, coercion or inducement or violence or threats of violence:

Section 15A of the SC/ST Act contains important provisions that safeguard the rights of the victims of caste-based atrocities and witnesses. Sub-sections (3) and (5) of Section 15A specifically make the victim or their dependent an active stakeholder in the criminal proceedings. These provisions enable a member of the marginalized caste to effectively pursue a case and counteract the effects of defective investigations. Sub-sections (1) to (5) of Section 15A are extracted below:

15A(1) It shall be the duty and responsibility of the State to make arrangements for the protection of victims, their dependents, and witnesses against any kind of intimidation or coercion or inducement or violence or threats of violence.

(2) A victim shall be treated with fairness, respect and dignity and with due regard to any special need that arises because of the victims age or gender or educational disadvantage or poverty.

(3) A victim or his dependent shall have the right to reasonable, accurate, and timely notice of any Court proceeding including any bail proceeding and the Special Public Prosecutor or the State Government shall inform the victim about any proceedings under this Act.

(4) A victim or his dependent shall have the right to apply to the Special Court or the Exclusive Special Court, as the case may be, to summon parties for production of any documents or material, witnesses or examine the persons present.

(5) A victim or his dependent shall be entitled to be heard at any proceeding under this Act in respect of bail, discharge, release, parole, conviction or sentence of an Accused or any connected proceedings or arguments and file written submission on conviction, acquittal or sentencing.

Sub-section (3) of Section 15A confers a statutory right on the victim or their dependents to reasonable, accurate, and timely notice of any court proceeding including a bail proceeding. In addition, Sub-section (3) requires a Special Public Prosecutor or the State Government to inform the victim about any proceeding under the Act. Sub-section (3) confers a right to a prior notice, this being evident from the use of the expression "reasonable, accurate, and timely notice of any court proceeding including any bail proceeding". Sub-section (5) provides for a right to be heard to the victim or to a dependent. The expression "dependent" is defined in Section 2(bb) thus:

The provisions of Sub-section (3) which stipulate the requirement of notice and of Sub-section (5) which confers a right to be heard must be construed harmoniously. The requirement of issuing a notice facilitates the right to be heard."

Section 18A. (i) For the purpose of this Act reads as under:-

"(a) preliminary enquiry shall be required for registration of a First Information Report against any person; or
(b) the investigating officer shall not require approval for the arrest, if necessary, of any person, against whom an accusation of having committed an offence under this Act has been made, and no procedure other than that provided under this Act or the Code shall apply.
(ii) The provisions of Section 438 of the Code shall not apply to a case under this Act, notwithstanding any judgment or order or direction of any Court."
Section 20 of the Act, 1989 reads as under:-
"Section 20. Act to override other laws.—
Save as otherwise provided in this Act, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any custom or usage or any instrument having effect by virtue of any such law."

25. Statement of Objects and Reasons of the Act of 1989. In this connection we may refer to the Statement of Objects and Reasons accompanying the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Bill, 1989, when it was introduced in Parliament. It sets out the circumstances surrounding the enactment of the said Act and points to the evil which the statute sought to remedy. In the Statement of Objects and Reasons, it is stated:-

"1- Despite various measures to improve the socio-economic conditions of the Scheduled Castes and the Scheduled Tribes, they remain vulnerable. They are denied number of civil rights. They are subjected to various offences, indignities, humiliations, and harassment. They have, in several brutal incidents, been deprived of their life and property. Serious crimes are committed against them for various historical, social, and economic reasons.
2. When they assert their rights and resist practices of untouchability against them or demand statutory minimum wages or refuse to do any bonded and forced labour, the vested interests try to cow them down and terrorise them. When the Scheduled Castes and the Scheduled Tribes try to preserve their self-respect or honour of their women, they become irritants for the dominant and the mighty. Occupation and cultivation of even the Government allotted land by the Scheduled Castes and Scheduled Tribes is resented and more often these people become victims of attacks by the vested interests. Of late, there has been an increase in the disturbing trend of the commission of certain atrocities like making the Scheduled Caste persons ear inedible substances, like human excreta and attacks on and

mass killings of helpless Scheduled Castes and the Scheduled Tribes and rape of women belonging to the Scheduled Castes and the Scheduled Tribes. Under the circumstances, the existing laws like the Protection of Civil Rights Act, 1955 and the normal provisions of the Indian Penal Code have been found to be inadequate to check these crimes. A special legislation to check and deter crimes against them committed by non-Scheduled Castes and non-Scheduled Tribes has, therefore, become necessary."

26. The preamble to the Act of 1989 also states as under:-

"An Act to prevent the Commission of offences of atrocities against the members of the Scheduled Castes and the Scheduled Tribes, to provide for special courts for the trial of such offences and for the relief and rehabilitation of the victims of such offences and for matters connected therewith or incidental thereto.

The above statement manifestly describes the prevalent social conditions which motivated the state to legislate said legislation. It is pointed out in the above Statement of Objects and Reasons that when members of the Scheduled Castes and Scheduled Tribes assert their rights and demand statutory protection, vested interests try to cow them down and terrorise them."

27. Hon'ble Supreme Court in **Union of India (UOI) Vs. State of Maharashtra and others (01.10.2019-SC):MANU/SC/1351/ 2019** highlighted the plight of the members of Scheduled Castes in following words:-

"37..... It cannot be disputed that as the members of the Scheduled Castes and Scheduled Tribes have suffered for long; the protective discrimination has been envisaged Under Article 15 of the Constitution of India and the provisions of the Act of 1989 to make them equals.

39. The National Commission for Scheduled Castes Annual Report 2015-16, has recommended for prompt registration of FIRs thus:

The Commission has noted with concern that instances of procedural lapses are frequent while dealing atrocity cases by both police and civil administration. There are delays in the judicial process of the cases. The Commission, therefore, identified lacunae commonly noticed during police investigation, as also preventive/curable actions the civil administration can take. NCSC recommends the correct and timely application of SC/ST (PoA) Amendment Act, 2015 and Amendment Rules of 2016 as well as the following for improvement:

8.6.1 Registration of FIRs-The Commission has observed that the police often resort to preliminary investigation upon receiving a complaint in writing before lodging the actual FIRs. As a result, the SC victims have to resort to seeking directions from courts for registration of FIRs Under Section 156(3) of Code of Criminal Procedure. Hon'ble Supreme Court has also on more than one occasion emphasized about registration of FIR first. This Commission again reemphasizes that the State/UT Governments should enforce prompt registration of FIRs.

41. As to prevailing conditions in various areas of the country, we are compelled to observe that SCs/STs are still making the struggle for equality and for exercising civil rights in various areas of the country. The members of the Scheduled Castes and Scheduled Tribes are still discriminated against in various parts of the country. In spite of reservation, the fruits of development have not reached to them, by and large, they remain unequal and vulnerable Section of the society. The classes of Scheduled Castes and Scheduled Tribes have been suffering ignominy and abuse, and they have been outcast socially for the centuries. The efforts for their upliftment should have been percolated down to eradicate their sufferings.

42. Though, Article 17 of the Constitution prohibits untouchability, whether untouchability has vanished? We have to find the answer to all these pertinent questions in the present prevailing social scenario in different parts of the country. The clear answer is that untouchability though intended to be abolished, has not vanished in the last 70 years. We are still experimenting with 'tryst with destiny.' The plight of untouchables is that they are still denied various civil rights; the condition is worse in the villages, remote areas where fruits of development have not percolated down. They cannot enjoy equal civil rights. So far, we have not been able to provide the modern methods of scavenging to Harijans due to lack of resources and proper planning and apathy. Whether he can shake hand with a person of higher class on equal footing? Whether we have been able to reach that level of psyche and human dignity and able to remove discrimination based upon caste? Whether false guise of cleanliness can rescue the situation, how such condition prevails and have not vanished, are we not responsible? The answer can only be found by soul searching. However, one thing is sure that we have not been able to eradicate untouchability in a real sense as envisaged and we have not been able to provide down-trodden class the fundamental civil rights and amenities, frugal comforts of life which make life worth living. More so, for Tribals who are at some places still kept in isolation as we have not been able to provide them even basic amenities, education and frugal comforts of life in spite of spending a considerable amount for

the protection, how long this would continue. Whether they have to remain in the status quo and to entertain civilized society? Whether under the guise of protection of the culture, they are deprived of fruits of development, and they face a violation of traditional rights?

46. They do labour, bonded or forced, in agricultural fields, which is not abrogated in spite of efforts. In certain areas, women are not treated with dignity and honour and are sexually abused in various forms. We see sewer workers dying in due to poisonous gases in chambers. They are like death traps. We have not been able to provide the masks and oxygen cylinders for entering in sewer chambers, we cannot leave them to die like this and avoid tortious liability concerned with officials/machinery, and they are still discriminated within the society in the matter of enjoying their civil rights and cannot live with human dignity.

47. The Constitution of India provides equality before the law under the provisions contained in Article 14. Article 15(4) of the Constitution carves out an exception for making any special provision for the advancement of any socially and educationally backward classes of citizens or SCs. and STs. Further protection is conferred Under Article 15(5) concerning their admission to educational institutions, including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions. Historically disadvantageous groups must be given special protection and help so that they can be uplifted from their poverty and low social status as observed in Kailas and Ors. v. State of Maharashtra, MANU/SC/0011/2011 : 2011 (1) SCC 793. The legislature has to attempt such incumbents be protected under Article 15(4), to deal with them with more rigorous provisions as compared to provisions of general law available to the others would create inequality which is not permissible/envisaged constitutionally. It would be an action to negate mandatory constitutional provisions not supported by the constitutional scheme; rather, it would be against the mandated constitutional protection. It is not open to the legislature to put members of the Scheduled Castes and Scheduled Tribes in a disadvantageous position vis-a-vis others and in particular to so-called upper castes/general category. Thus, they cannot be discriminated against more so when we have a peep into the background perspective. What legislature cannot do legitimately, cannot be done by the interpretative process by the courts.

48. The particular law, i.e., Act of 1989, has been enacted and has also been amended in 2016 to make its provisions more effective. Special prosecutors are to be provided for speedy trial of cases. The incentives are also provided for rehabilitation of

victims, protection of witnesses and matters connected therewith.

49. There is no presumption that the members of the Scheduled Castes and Scheduled Tribes may misuse the provisions of law as a class and it is not resorted to by the members of the upper Castes or the members of the elite class. For lodging a false report, it cannot be said that the caste of a person is the cause. It is due to the human failing and not due to the caste factor. Caste is not attributable to such an act. On the other hand, members of the Scheduled Castes and Scheduled Tribes due to backwardness hardly muster the courage to lodge even a first information report, much less, a false one. In case it is found to be false/unsubstantiated, it may be due to the faulty investigation or for other various reasons including human failings irrespective of caste factor. There may be certain cases which may be false that can be a ground for interference by the Court, but the law cannot be changed due to such misuse. In such a situation, it can be taken care in proceeding Under Section 482 of the Code of Criminal Procedure.

51. As a matter of fact, members of the Scheduled Castes and Scheduled Tribes have suffered for long, hence, if we cannot provide them protective discrimination beneficial to them, we cannot place them at all at a disadvantageous position that may be causing injury to them by widening inequality and against the very spirit of our Constitution. It would be against the basic human dignity to treat all of them as a liar or as a crook person and cannot look at every complaint by such complainant with a doubt. Eyewitnesses do not come up to speak in their favour. They hardly muster the courage to speak against upper caste, that is why provisions have been made by way of amendment for the protection of witnesses and rehabilitation of victims. All humans are equal including in their frailings. To treat SCs. and STs. as persons who are prone to lodge false reports under the provisions of the Scheduled Castes and Scheduled Tribes Act for taking revenge or otherwise as monetary benefits made available to them in the case of their being subjected to such offence, would be against fundamental human equality. It cannot be presumed that a person of such class would inflict injury upon himself and would lodge a false report only to secure monetary benefits or to take revenge. If presumed so, it would mean adding insult to injury, merely by the fact that person may misuse provisions cannot be a ground to treat class with doubt. It is due to human failings, not due to the caste factor. The monetary benefits are provided in the cases of an acid attack, sexual harassment of SC/ST women, rape, murder, etc. In such cases, FIR is required to be registered promptly.

52. It is an unfortunate state of affairs that the caste system still prevails in the country and people remain in slums, more

particularly, under skyscrapers, and they serve the inhabitants of such buildings."

28. A Full Bench of this Court in re Provision of Section 14A of the SCST Act decided on 10.10.2018 recalled the background facts leading to the amendment of the act of 1989 in following words:-

"The Standing Committee on Social Justice and Empowerment in its Sixth Report tabled before the Lok Sabha on 19 December 2014 was constrained to note that despite the promulgation of the 1989 Act crimes against the members of this disadvantaged class had continued unabated and the atrocities committed against its member continued to remain at a disturbing level. It also noted that prosecution had been weak and that the existing provisions had resulted in very few convictions. It was found that while atrocities against this class continued to be committed, the existing statutory regimen had not only failed to tackle the commission of crimes, it had also woefully failed to ensure convictions in respect of crimes committed against this class. It is in the aforesaid backdrop that it framed its various recommendations in favour of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Bill, 2014. Before we proceed further, it would also be relevant to notice the SOR of the Amending Act which accompanied the Bill which was tabled in Parliament. The relevant extract of the SOR reads thus:

"The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 was enacted with a view to prevent the commission of offences of atrocities against the members of the Scheduled Castes and Scheduled Tribes and to establish Special Courts for the trial of such offences and for providing relief and rehabilitation of the victims of such offences.

2. Despite the deterrent provisions made in the Act, atrocities against the members of the Scheduled Castes and Scheduled Tribes continue at a disturbing level. Adequate justice also remains difficult for a majority of the victims and the witnesses, as they face hurdles virtually at every stage of the legal process. The implementation of the Act suffers due to (a) procedural hurdles such as nonregistration of cases; (b) procedural delays in investigation, arrests and filing of charge sheets; and (c) delays in trial and low conviction rate.

3. It is also observed that certain forms of atrocities, known to be occurring in recent years, are not covered by the Act. Several offences under the Indian Penal Code, other than those already covered under section 3(2) (v) of the Act, are also committed frequently against the

members of the Scheduled Castes and the Scheduled Tribes on the ground that the victim was a member of a Scheduled Caste and Scheduled Tribe. It is also felt that the public accountability provisions under the Act need to be outlined in greater detail and strengthened.

4. In view of the above, it became necessary to make a comprehensive review of the relevant provisions of the Act after due consultation with the State Governments, Union territory Administrations, concerned Central Ministries, National Commission for the Scheduled Castes, National Commission for the Scheduled Tribes, certain NonGovernmental Organisations and Activists."

As is evident from the SOR, the Amending Act recognised the undisputed fact that atrocities are being continuously committed against the members of this class. The amendment attempts to streamline and strengthen the processes for enquiry, investigation and trial of offences under the Act. It also amplifies the nature of acts which would constitute an offence committed against members of the this class.

Perusal of definitions placed herein before would leave no iota of doubt that intention of the Amendment Act was to provide for Speedy Trial and Protection of Victims' Rights. By way of Section 2(ec) Victim has been defined and beside Section 14-A, Section 15-A, "Rights of victim and witnesses" was introduced to take care of them for the first time. Definition of Victim includes-relatives, legal guardian and legal heirs and this definition is much wider than the definition of Victim provided in Section 2(wa) of Code of Criminal Procedure which includes guardian or legal heir, not the relatives. Similarly, Section 15A of Atrocities Act provides an extensive mechanism for protection of Victims/Witnesses."

29. A close reading of the newly inserted Section 14-A of the Act of 1989 would reveal that sub-section (1) of Section 14-A of the Act provides that no appeal would lie against any interlocutory order passed by Special Court or Exclusive Special Court. It is well settled that an order granting or refusing bail is an interlocutory order inasmuch as it is not a judgment or final order, which terminates a criminal proceeding pending before the Court. However, an exception has been carved in clause (2) of Section 14-A, which provides an appeal against an interlocutory order passed by the Special Court or the Exclusive Special Court either granting or refusing bail under the Act. Thus, it can be said that sub-section (2) of Section 14-A is based on the doctrine of reasonable classification and it is to be read as an

exception to the general principle. Though other interlocutory orders passed by the Special Court or the Exclusive Special Court, as the case may be, are not appealable at all in view of the provisions prescribed under Section 14-A(1) of the Amendment Act, 2015, the order granting or refusing bail is an order against which an appeal is permitted under newly inserted Section 14-A(2) of the Act. This is so, because as provided under sub-section (3) of Section 14, every trial, under the Act, is to proceed on day-to-day basis and has to be conducted expeditiously. Therefore, no remedy of appeal or revision is provided against any other interlocutory orders passed by the Special Court or the Exclusive Special Court.

30. As has been noticed above, Section 14 as was existing originally in Act of 1989 has been substituted by amending Act of 2015 and now envisages the creation and designation of Exclusive and Special Courts for the purposes of trial of offences. The provisions of the Amending Act significantly places specific timeframes for the purposes of enquiry, investigation and trial of offences. The trial is to be completed, as far as possible, within a period of 2 months from the date of filing of a charge sheet. **Section 14A also enjoins the appellate forum to endeavour to dispose of appeals within a period of three months from the date of its admission**. Chapter IVA highlights various rights which have been provided to victims and witnesses including the obligation of the State to make arrangements for their protection and treatment with respect and dignity. A right to reasonable, accurate and timely notice of all proceedings as well as the right to legal aid has also been provided. Significant provisions have also been provided by virtue of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Rules, 2016 amending the provisions with regard to payment of compensation at different stages of proceedings, periodical review of the status of this class district wise, creation of a panel of senior lawyers who may prosecute matters before the courts, the filing of charge sheets within 60 days which is

to include the period spent in investigation. Thus, the Amendments made by the amendment Act of 2015 appears to be streamlining a comprehensive and inclusive machinery for the enquiry, investigation and trial of offences against members of this class and has also strengthened institutional mechanisms for empowering the members of this class to effectively pursue prosecution of crimes and speedy trial of these offenses.

31. From a plain reading of Section 14A of act of 1989, which commences with a non-obstante clause, it appears to us that an appeal, notwithstanding anything contained in the CrPC, shall lie from any judgment, sentence or order, not being an interlocutory order, passed by a Special Court or an Exclusive Special Court to the High Court, both on facts and on law. The scheme of the Amending Act provides for proceedings of trial on a day to day basis and to conclude the same not only expeditiously but within the time frame stipulated therein. This conscious and explicit exception of not providing appeal against interlocutory orders other than orders of rejecting and allowing bail appears to have been made consciously bearing in mind that an order granting or refusing bail is directly concerning the liberty of the accused, thus, sub-section (2) carves out an exception to the general exclusion of an appeal against interlocutory orders which are not appealable under Section (1) of Section 14A. Thus, it is clear from perusal of Section 14A that it has brought certain significant changes in the procedure of challenging the orders of special Courts or Exclusive Special Courts, as originally provided under the Act of 1989. It intentionally creates an appellate forum at the level of the High Court to challenge any judgment, sentence or order, not being an interlocutory order, including an order refusing or granting bail. In this way, Section 14A makes a significant departure from the original 1989 Act as prior to passing of the Amending Act, the concurrent power of the High Court under Section 439 CrPC was not ousted, however, the said powers have now been streamlined by

creating an appellate forum at the level of the High Court to consider all challenges relating to any judgment, sentence or order passed by the Special Courts or Exclusive Special Courts dealing with offences committed under the 1989 Act as well as the power to hear appeals against orders granting or refusing bail. Thus, keeping in view the language used in Section 14 A of the Act of 1989, which in our considered opinion is simple, plain and clear, it would emerge that by such Amendment an appellate forum has been created at the level of High Court to challenge any judgment, sentence or order passed by the Special Courts or Exclusive Special Courts not being an interlocutory order including order of granting and refusing bail. Thus, when the language of a provision is plain and simple and is capable of only one interpretation, which is also in the line of the purpose and object of the Act of 1989, we do not find any reason as to why any other rule of interpretation should be applied for its interpretation.

32. It is an established rule of interpretation of any statute that when language of a statute is plain and simple, the rule of literal interpretation must be applied. Hon'ble Supreme Court in the case reported in ***(1973) 1 SCC 216 (Hiralal Rattanlal Vs. State of U.P.)*** has held that in construing a statutory provision, the first and the foremost rule of construction is the literal construction. All that we have to see at the very outset is what does that provision say? If the provision is unambiguous and if from that provision, the legislative intent is clear, we need not call into aid the other rules of construction of statutes. The other rules of construction of statutes are called into aid only when the legislative intention is not clear.

33. Supreme Court in the case reported in ***(2011) 4 SCC 266 (Premanand Vs. Mohan Koikal)*** has held that it may be mentioned in this connection that the first and foremost principle of interpretation of a statute in every system of interpretation is the literal rule of interpretation. The other rules of interpretation e.g. the mischief rule, purposive interpretation etc. can only be resorted to when the plain words of statute are ambiguous and not leading to intelligible results

or if read literally would nullify the very object of statute. Where the words of a statute are absolutely clear and unambiguous, recourse cannot be had to the principles of interpretation other than the literal rule, vide ***Swedish Match AB v. SEBI [(2004) 11 SCC 641 : AIR 2004 SC 4219]*** .

34. Supreme Court in the case reported in **(2018) 9 SCC 1(Commissioner of Customs (Import), Mumbai Vs. Dilip Kumar & Company and others)** has held as under:-

> *"18. The purpose of interpretation is essentially to know the intention of the legislature. Whether the legislature intended to apply the law in a given case; whether the legislature intended to exclude operation of law in a given case; whether the legislature intended to give discretion to enforcing authority or to adjudicating agency to apply the law, are essentially questions to which answers can be sought only by knowing the intention of the legislation. Apart from the general principles of interpretation of statutes, there are certain internal aids and external aids which are tools for interpreting the statutes.*
>
> *21. The well-settled principle is that when the words in a statute are clear, plain and unambiguous and only one meaning can be inferred, the courts are bound to give effect to the said meaning irrespective of consequences. If the words in the statute are plain and unambiguous, it becomes necessary to expound those words in their natural and ordinary sense. The words used declare the intention of the legislature.*
>
> *22. In Kanai Lal Sur v. Paramnidhi Sadhukhan,[AIR 1957 SC 907] , it was held that if the words used are capable of one construction only then it would not be open to the courts to adopt any other hypothetical construction on the ground that such construction is more consistent with the alleged object and policy of the Act.*
>
> *23. In applying rule of plain meaning any hardship and inconvenience cannot be the basis to alter the meaning to the language employed by the legislation. This is especially so in fiscal statutes and penal statutes. Nevertheless, if the plain language results in absurdity, the court is entitled to determine the meaning of the word in the context in which it is used keeping in view the legislative purpose. [Commr. v. Mathapathi Basavannewwa, (1995) 6 SCC 355] Not only that, if the plain construction leads to anomaly and absurdity, the court having regard to the hardship and consequences that flow from such a provision can even explain the true intention of the legislation. Having observed general principles applicable to statutory interpretation, it is now time to consider rules of interpretation with respect to taxation.*

25. At the outset, we must clarify the position of "plain meaning rule or clear and unambiguous rule" with respect to tax law. "The plain meaning rule" suggests that when the language in the statute is plain and unambiguous, the court has to read and understand the plain language as such, and there is no scope for any interpretation. This salutary maxim flows from the phrase "cum inverbis nulla ambiguitas est, non debet admitti voluntatis quaestio". Following such maxim, the courts sometimes have made strict interpretation subordinate to the plain meaning rule [Mangalore Chemicals and Fertilisers Ltd. v. CCT, 1992 Supp (1) SCC 21] , though strict interpretation is used in the precise sense. To say that strict interpretation involves plain reading of the statute and to say that one has to utilise strict interpretation in the event of ambiguity is self-contradictory.

28. The decision of this Court in Punjab Land Development and Reclamation Corpn. Ltd. v. Labour Court [Punjab Land Development and Reclamation Corpn. Ltd. v. Labour Court, (1990) 3 SCC 682 : 1991 SCC (L&S) 71] , made the said distinction, and explained the literal rule: (SCC p. 715, para 67).

> *"67. The literal rules of construction require the wording of the Act to be construed according to its literal and grammatical meaning, whatever the result may be. Unless otherwise provided, the same word must normally be construed throughout the Act in the same sense, and in the case of old statutes regard must be had to its contemporary meaning if there has been no change with the passage of time."*
>
> *That strict interpretation does not encompass strict literalism into its fold. It may be relevant to note that simply juxtaposing "strict interpretation" with "literal rule" would result in ignoring an important aspect that is "apparent legislative intent". We are alive to the fact that there may be overlapping in some cases between the aforesaid two rules. With certainty, we can observe that, "strict interpretation" does not encompass such literalism, which lead to absurdity and go against the legislative intent. As noted above, if literalism is at the far end of the spectrum, wherein it accepts no implications or inferences, then "strict interpretation" can be implied to accept some form of essential inferences which literal rule may not accept.*

35. Supreme Court in the case reported in ***(2022) 2 SCC 1 (Punjab State Power Corporation Limited and another Vs. Emta Coal Ltd.)***, while highlighting the principles of plain and literal interpretation, propounded the law in the following words:-

23. The principle of giving a plain and literal meaning to the words in a statute is well-recognised for ages. Though there are a number of judgments, we may gainfully refer to the judgment of this Court delivered by Das, J. as early as 1955 in Jugalkishore Saraf v. Raw Cotton Co. Ltd. [Jugalkishore Saraf v. Raw Cotton Co. Ltd., (1955) 1 SCR 1369 : AIR 1955 SC 376] : (AIR p. 381, para 6)

> *"6. … The cardinal rule of construction of statutes is to read the statute literally, that is by giving to the words used by the legislature their ordinary, natural and grammatical meaning. If, however, such a reading leads to absurdity and the words are susceptible of another meaning the Court may adopt the same. But if no such alternative construction is possible, the Court must adopt the ordinary rule of literal interpretation."*

24. Though there are various authorities on the said subject, we do not wish to burden the present judgment by reproducing those. In our considered view, if the words used in Section 11 of the said Act are construed in plain and literal term, they do not lead to an absurdity and as such, the rule of plain and literal interpretation will have to be followed. We find that in case the interpretation as sought to be placed by Shri Rohatgi is to be accepted, it will do complete violence to the language of Section 11 of the said Act. If it is held that under Section 11 of the said Act, a prior contractor is entitled to continue if his performance is found to be satisfactory and if there is nothing against him, then it will be providing something in Section 11 of the said Act which the statute has not provided for. It will also lead to making the words "may elect, to adopt and continue" redundant and otiose.

25. It is a settled principle of law that when, upon a plain and literal interpretation of the words used in a statute, the legislative intent could be gathered, it is not permissible to add words to the statute. Equally, such an interpretation which would make some terms used in a statute otiose or meaningless, has to be avoided. We therefore find that if an interpretation as sought to be placed by EMTA is to be accepted, the same would be wholly contrary to the principle of literal interpretation. There are number of authorities in support of the said proposition. However, we refrain from referring to them in view of the following observations made by this Court in a recent judgment in Ajit Mohan v. Delhi Legislative Assembly [Ajit Mohan v. Delhi Legislative Assembly, (2022) 3 SCC 529 : 2021 SCC OnLine SC 456] : (SCC para 240)

> *"240. … In our view if the proposition of law is not doubted by the Court, it does not need a precedent unless asked for. If a question is raised about a legal proposition, the judgment must be relatable to that proposition — and not multiple judgments."*

As such, the contention in that regard is found to be without merit.

36. Supreme Court in the case reported in ***(2005) 2 SCC 271 (Nathi Devi Vs. Radha Devi Gupta)*** has highlighted the principles of interpretation of statute wherein the language of the statute is plain and simple in the following words:-

13. The interpretative function of the court is to discover the true legislative intent. It is trite that in interpreting a statute the court must, if the words are clear, plain, unambiguous and reasonably susceptible to only one meaning, give to the words that meaning, irrespective of the consequences. Those words must be expounded in their natural and ordinary sense. When the language is plain and unambiguous and admits of only one meaning, no question of construction of statute arises, for the Act speaks for itself. Courts are not concerned with the policy involved or that the results are injurious or otherwise, which may follow from giving effect to the language used. If the words used are capable of one construction only then it would not be open to the courts to adopt any other hypothetical construction on the ground that such construction is more consistent with the alleged object and policy of the Act. In considering whether there is ambiguity, the court must look at the statute as a whole and consider the appropriateness of the meaning in a particular context avoiding absurdity and inconsistencies or unreasonableness which may render the statute unconstitutional.

14. It is equally well settled that in interpreting a statute, effort should be made to give effect to each and every word used by the legislature. The courts always presume that the legislature inserted every part thereof for a purpose and the legislative intention is that every part of the statute should have effect. A construction which attributes redundancy to the legislature will not be accepted except for compelling reasons such as obvious drafting errors. (See State of U.P. v. Dr. Vijay Anand Maharaj [AIR 1963 SC 946 : (1963) 1 SCR 1] , Rananjaya Singh v. Baijnath Singh [AIR 1954 SC 749 : (1955) 1 SCR 671] , Kanai Lal Sur v. Paramnidhi Sadhukhan [AIR 1957 SC 907 : 1958 SCR 360] , Nyadar Singh v. Union of India [(1988) 4 SCC 170 : 1988 SCC (L&S) 934 : (1988) 8 ATC 226 : AIR 1988 SC 1979] , J.K. Cotton Spg. and Wvg. Mills Co. Ltd. v. State of U.P. [AIR 1961 SC 1170] and Ghanshyamdas v. CST [AIR 1964 SC 766 : (1964) 4 SCR 436] .)

15. It is well settled that literal interpretation should be given to a statute if the same does not lead to an absurdity.

16. In Nasiruddin v. Sita Ram Agarwal [(2003) 2 SCC 577] this Court stated the law in the following terms: (SCC p. 589, para 37)

> *"37. The court's jurisdiction to interpret a statute can be invoked when the same is ambiguous. It is well known that in a given case the court can iron out the fabric but it cannot change the texture of the fabric. It cannot enlarge the scope of legislation or intention when the language of the provision is plain and unambiguous. It cannot add or subtract words to a statute or read something into it which is not there. It cannot rewrite or recast legislation. It is also necessary to determine that there exists a presumption that the legislature has not used any superfluous words. It is well settled that the real intention of the legislation must be gathered from the language used. It may be true that use of the expression 'shall or may' is not decisive for arriving at a finding as to whether the statute is directory or mandatory. But the intention of the legislature must be found out from the scheme of the Act. It is also equally well settled that when negative words are used the courts will presume that the intention of the legislature was that the provisions are mandatory in character."*

17. Even if there exists some ambiguity in the language or the same is capable of two interpretations, it is trite that the interpretation which serves the object and purport of the Act must be given effect to. In such a case the doctrine of purposive construction should be adopted. (See Swedish Match AB v. Securities & Exchange Board of India [(2004) 11 SCC 641 : (2004) 7 Scale 158] .)

18. In High Court of Gujarat v. Gujarat Kishan Mazdoor Panchayat [(2003) 4 SCC 712 : 2003 SCC (L&S) 565] this Court held: (SCC p. 733, paras 35-36)

> *"35. The court while interpreting the provision of a statute, although, is not entitled to rewrite the statute itself, is not debarred from 'ironing out the creases'. The court should always make an attempt to uphold the rules and interpret the same in such a manner which would make it workable.*
>
> *36. It is also a well-settled principle of law that an attempt should be made to give effect to each and every word employed in a statute and such interpretation which would render a particular provision redundant or otiose should be avoided."*

37. Likewise, in the case reported in ***(2002) 7 SCC 273 (Union of India Vs. Hansoli Devi)*** Supreme Court has highlighted the rule of interpretation with regard to a statute wherein the language is plain and unambiguous as under:-

9. Before we embark upon an inquiry as to what would be the correct interpretation of Section 28-A, we think it appropriate to bear in mind certain basic principles of interpretation of a statute. The rule stated by Tindal, C.J. in Sussex Peerage case [(1844) 11 Cl & Fin 85 : 8 ER 1034] still holds the field. The aforesaid rule is to the effect: (ER p. 1057)

> *"If the words of the statute are in themselves precise and unambiguous, then no more can be necessary than to expound those words in their natural and ordinary sense. The words themselves alone do, in such case, best declare the intention of the lawgiver."*

It is a cardinal principle of construction of a statute that when the language of the statute is plain and unambiguous, then the court must give effect to the words used in the statute and it would not be open to the courts to adopt a hypothetical construction on the ground that such construction is more consistent with the alleged object and policy of the Act. In Kirkness v. John Hudson & Co. Ltd. [(1955) 2 All ER 345 : 1955 AC 696 : (1955) 2 WLR 1135] Lord Reid pointed out as to what is the meaning of "ambiguous" and held that: (All ER p. 366 C-D)

> *"A provision is not ambiguous merely because it contains a word which in different contexts is capable of different meanings. It would be hard to find anywhere a sentence of any length which does not contain such a word. A provision is, in my judgment, ambiguous only if it contains a word or phrase which in that particular context is capable of having more than one meaning."*

It is no doubt true that if on going through the plain meaning of the language of statutes, it leads to anomalies, injustices and absurdities, then the court may look into the purpose for which the statute has been brought and would try to give a meaning, which would adhere to the purpose of the statute. Patanjali Sastri, C.J. in the case of Aswini Kumar Ghose v. Arabinda Bose [(1952) 2 SCC 237 : AIR 1952 SC 369 : 1953 SCR 1] had held that it is not a sound principle of construction to brush aside words in a statute as being inapposite surplusage, if they can have appropriate application in circumstances conceivably within the contemplation of the statute. In Quebec Railway, Light Heat & Power Co. Ltd. v. Vandry [AIR 1920 PC 181] it had been observed that the legislature is deemed not to waste its words or to say anything in vain and a construction which attributes redundancy to the legislature will not be accepted except for compelling reasons. Similarly, it is not permissible to add words to a statute which are not there unless on a literal construction being given a part of the statute becomes meaningless. But before any words are read to repair an omission in the Act, it should be possible to state with certainty that these words would have been inserted by the draftsman

and approved by the legislature had their attention been drawn to the omission before the Bill had passed into a law. At times, the intention of the legislature is found to be clear but the unskilfulness of the draftsman in introducing certain words in the statute results in apparent ineffectiveness of the language and in such a situation, it may be permissible for the court to reject the surplus words, so as to make the statute effective.

38. Supreme Court in the case reported in ***(2003) 2 SCC 577 (Nasiruddin v. Sita Ram Agarwal)*** has held the law in the following terms:-

"37. The court's jurisdiction to interpret a statute can be invoked when the same is ambiguous. It is well known that in a given case the court can iron out the fabric but it cannot change the texture of the fabric. It cannot enlarge the scope of legislation or intention when the language of the provision is plain and unambiguous. It cannot add or subtract words to a statute or read something into it which is not there. It cannot rewrite or recast legislation.

39. Supreme Court in the case reported in **(2009) 10 SCC 552 (Union of India Vs. A.K. Pandey)** has highlighted the principles of interpretation in para-15 of the report in the following words:-

15. The principle seems to be fairly well settled that prohibitive or negative words are ordinarily indicative of mandatory nature of the provision; although not conclusive. The Court has to examine carefully the purpose of such provision and the consequences that may follow from non-observance thereof. If the context does not show nor demands otherwise, the text of a statutory provision couched in a negative form ordinarily has to be read in the form of command. When the word "shall" is followed by prohibitive or negative words, the legislative intention of making the provision absolute, peremptory and imperative becomes loud and clear and ordinarily has to be inferred as such.

40. It may be recalled that language used in Section 14-A of the Act of 1989 is plain, simple and unambiguous and, therefore, the same must be given full effect also in view of the non obstante clause provided therein as Section 14-A of the Act of 1989 begins with a non obstante clause which states that 'notwithstanding anything contained in the CrPC'. In **(State of Bihar and others Vs. Bihar Rajya M.S.E.S.K.K.**

Mahasangh and others), reported in **(2005) 9 SCC 129** Supreme Court opined as under:-

> *"45. A non obstante clause is generally appended to a section with a view to give the enacting part of the section, in case of conflict, an overriding effect over the provision in the same or other Act mentioned in the non obstante clause. It is equivalent to saying that in spite of the provisions of the Act mentioned in the non obstante clause, the provision following it will have its full operation or the provisions embraced in the non obstante clause will not be an impediment for the operation of the enactment or the provision in which the non obstante clause occurs. (See Principles of Statutory Interpretation, 9th Edn., by Justice G.P. Singh — Chapter V, Synopsis IV at pp. 318 and 319.)"*

41. Supreme Court in ***(JIK Industries limited and others Vs. Amarlal V. Jumani and another),*** reported in ***(2012) 3 SCC 255,*** *held* as under:-

> *"60. The insertion of a non obstante clause is a well-known legislative device and in olden times it had the effect of non obstante aliquo statuto in contrarium (notwithstanding any statute to the contrary). Under the Stuart reign in England the Judges then sitting in Westminster Hall accepted that the statutes were overridden by the process but this device of judicial surrender did not last long.*
>
> *63. The impact of a "non obstante clause" on the Act concerned was considered by this Court in many cases and it was held that the same must be kept measured by the legislative policy and it has to be limited to the extent it is intended by Parliament and not beyond that. (See ICICI Bank Ltd. v. SIDCO Leathers Ltd. [(2006) 10 SCC 452] , SCC para 37 at p. 466.)*
>
> *64. In the instant case the non obstante clause used in Section 147 of the NI Act does not refer to any particular section of the Code of Criminal Procedure but refers to the entire Code. When non obstante clause is used in the aforesaid fashion the extent of its impact has to be found out on the basis of consideration of the intent and purpose of insertion of such a clause.*
>
> *65. Reference in this connection may be made to the Constitution Bench decision of this Court in Madhav Rao Jivaji Rao Scindia v. Union of India [(1971) 1 SCC 85] , Hidayatullah, C.J. delivering the majority opinion, while construing the provision of Article 363, which also uses non obstante clause without reference to any article in the Constitution, held that when non obstante clause is used in such a blanket fashion the Court has to determine the scope of*

its use very strictly (see paras 68-69 at pp. 138-39 of the Report).”

42. The above placed legal precedents would sufficiently indicate that the Court’s jurisdiction to interpret a statute can only be invoked when the language of a statute is not simple and plain but is a complex one and, when the language of a statute is otherwise simple, plain and is capable of only one meaning, and is also projecting the intention of legislature, there is no use to apply any other construction than literal interpretation. In this regard, the importance of a non-obstante clause could also not be brushed aside as the same provides an overriding effect to that provision over and above the proceedings contained in the same Act or in any other Act.

43. At this juncture it is also worth while to recall Sections 4 and 5 of the CrPC, reproduced as under:-

4. Trial of offences under the Indian Penal Code and other laws.-
"(1) All offences under the Indian Penal Code(45 of 1860) shall be investigated, inquired into, tried, and otherwise dealt with according to the provisions hereinafter contained.
(2) All offences under any other law shall be investigated, inquired into, tried, and otherwise dealt with according to the same provisions, but subject to any enactment for the time being in force regulating the manner or place of investigating, inquiring into, trying or otherwise dealing with such offences."
5.Saving.-
"*Nothing contained in this Code shall, in the absence of a specific provision to the contrary, affect any special or local law for the time being in force, or any special jurisdiction or power conferred, or any special form of procedure prescribed, by any other law for the time being in force."*

44. A conjoint reading of above placed Section 4(2) and Section 5 of the CrPC would reveal that all offences, whether under the IPC or under any other law, have to be investigated, inquired into, tried and otherwise dealt with according to the provisions of the CrPC, unless there is an existing procedure given in any enactment regulating the manner, place and procedure of such investigating, inquiring into, trying or otherwise dealing with such offences, in which case that special procedure provided in that enactment will prevail over those

of CrPC. However, if there is no such procedure provided in any enactment the procedure provided under Section 4 of the CrPC, is comprehensive and to the extent that until no valid machinery is set up under any Act for investigation or trial, the jurisdiction and the machinery, provided under the CrPC would be applicable and could not be excluded. It also shows that the principle of prevalence and overriding effect of a special statute over and above the provisions of the CrPC is enshrined in said Section 5. Moreover, if one goes by Section 4 and 5 of the CrPC, by applying the rule of the harmonious construction of the aforesaid provisions of the Act of 1989 vis a vis CrPC, it will go to establish that the special enactment in the form of Act of 1989 has been enacted by the legislature conferring special jurisdiction or power with special form of procedure being prescribed, for special offences, which in the present case is in the form of appeals prescribed under Section 14A, including the appeals against the order of conviction /acquittal /lesser sentence/ compensation. The language used in Section 14 A (1) of Act of 1989 i.e. **Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974**), an appeal shall lie, from **any judgment, sentence or order,** not being an interlocutory order, of a Special Court or an Exclusive Special Court, to the High Court both on facts and on law. (**Emphasis Ours**), would suggest for itself that the language of the provision is very clear as it has provided appeals from any judgment, sentence or order, not being an interlocutory order (Excluding order of rejecting and allowing bail) to the High Court on facts as well as on law.

45. The Full Bench of this Court, while considering the amended provisions of the Act of 1989 In re: provisions of Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 decided on 10.10.2018, opined that it must be borne in mind that the statute itself provides a remedy to an accused against any judgment, sentence and order of the Special Court/Exclusive Special Court to the High Court, therefore, any

person, who is aggrieved by an order of the Special Court/Exclusive Special Court, can approach and prefer an appeal to the High Court for redressal of his grievance and any grievance of an accused/victim against the order of the trial Court can be examined both on facts and law by the High Court. While considering whether powers under Article 226/227 of the Constitution of India may be invoked in respect of causes which may duly fall for consideration within the contours of Section 14-A of the Act of 1989 it was opined as under:-

> *"In our considered opinion the answer to this question must necessarily be answered in the negative. Where the judgment, sentence or order is of a character which would be amenable to the appellate powers of this Court as conferred by Section 14A, the High Court recognising the well settled principle of judicial self-restraint would not invoke its constitutional or inherent powers. This, we do hold, since the statute provides for an adequate and efficacious remedy to the aggrieved person before the High Court itself. Since the 1989 Act has already been recognised by us to constitute a special enactment and does construct a wholesome correctional avenue in respect of any judgment, sentence or order that may be passed in proceedings under the said Act, the constitutional and inherent powers cannot be invoked in situations covered by Section 14A."*

46. In order to demonstrate that a special mechanism has been provided by the legislature for investigation, trial and challenging the orders of the trial courts (Special Courts and the Exclusive Special Courts) which is in a clear departure from what has been earlier provided in the CrPC or prior to amendment of 2015 it is recalled that a reading of the proviso (2) of the amended Section 14(1) of the Act of 1989, would reflect that the Special Courts and the Exclusive Special Courts, established under the Act, have now been vested with the power to directly take cognizance of the offences punishable under the Act.

Section 193 of the CrPC deals with taking of cognizance of offences by Courts of Session, which reads as under:-

> *"193. Cognizance of offences by Courts of Session:- Except as otherwise expressly provided by this Code or by any other law for the time being in force, no Court of Session shall take cognizance of any offence as a Court of original jurisdiction*

unless the case has been committed to it by a Magistrate under this Code."

47. In **Gangula Ashok vs. State of Andhra Pradesh (MANU/SC/0047/2000 : AIR 2000 SC 740)**, Hon'ble Supreme Court, taking into consideration Section 14 of the Act of 1989 as the same was existing prior to its amendment, held that the intention of the legislature is to treat the Special Court to be a Court of Session even after specifying it as a Special Court and the trial, in such a Court, can be conducted only in the manner provided under Chapter XXXIII of the Code, which contains provisions for 'trial before a Court of Session'. It was further held that Section 14 of the Act prohibits Special Court from taking cognizance of offences under the Act as Court of original jurisdiction unless the case has been committed to it by the Court of Magistrate, who, by virtue of Section 190 of the Code, is entitled to take cognizance of the offence. In the background the second proviso to the amended Section 14(1) of the Act is important which specifically confers power on the Special Court and the Exclusive Special Court to directly take cognizance of the offences under the Act. Thus by amending Section 14 of the act of 1989 , an exception to the general rule provided under Section 193 has been carved out. Thus, the necessity of the committal of the case by a magistrate has now been done away by amendment, which reflects the intention of the legislature to speed up the trial as the committal proceedings sometimes take much time and results in wastage of time. What we are highlighting is that when a statute provides a specific procedure the said procedure is bound to be followed if it is not running contrary to the scheme and object of the Act. There is no dispute with regard to the fact that the Act of 1989 is a Special Act and the second proviso to Section 14(1) of the Act, positively and unequivocally, provides that the Special Court, which is essentially a Court of Session, shall have power to directly take cognizance of the offence. Hence, the necessity of committal as provided under Section 193 of the CrPC has now been removed by

making specific provision in the Special Act. Thus after coming into force of the Amendment Act, 2015 the exclusive special Court or special Court as the case may be have been empowered to take cognizance directly without the case being committed to it.

48. Hon'ble Supreme Court in **State of A.P. Vs. Mohd. Hussain alias Saleem, reported in (2014) 1 SCC 258**, had an occasion to consider Section 21(1) and (4) of the National Investigation Agency Act, 2008 (for short, "the NIA Act") ,which is pari materia with provisions contained under Section 14A of the Act of 1989, which is reproduced as under:-

> *"21. Appeals. - 1. Notwithstanding anything contained in the Code, an appeal shall lie from any judgment, sentence or order, not being an interlocutory order, of a Special Court to the High Court both on facts and on law.*
> *2. Every appeal under sub-section (1) shall be heard by a bench of two Judges of the High Court and shall, as far as possible, be disposed of within a period of three months from the date of admission of the appeal.*
> *3. Except as aforesaid, no appeal or revision shall lie to any court from any judgment, sentence or order including an interlocutory order of a Special Court.*
> *4. Notwithstanding anything contained in sub- section (3) of section 378 of the Code, an appeal shall lie to the High Court against an order of the Special Court granting or refusing bail.*
> *5. Every appeal under this section shall be preferred within a period of thirty days from the date of the judgment, sentence or order appealed from:*
> *Provided that the High Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of thirty days:*
> *Provided further that no appeal shall be entertained after the expiry of period of ninety days."*
> From a bare reading of Section 21 of the NIA Act vis-à-vis Section 14-A of the Act of 1989, it would be evident that clause (1) and (4) of the NIA Act are in pari materia with Section 14-A(1) and (2) of the Act of 1989."

49. The Supreme Court in *State of A.P. Vs. Mohd. Hussain alias Saleem* (supra) has interpreted clause (1) and (4) of NIA Act, in paragraph Nos. 17, 18 and 19 as under : -

> *"17. There is no difficulty in accepting the submission on behalf of the appellant that an order granting or refusing bail is an*

interlocutory order. The point however to be noted is that as provided under Section 21(4), the appeal against such an order lies to the High Court only, and to no other court as laid down in Section 21(3). Thus it is only the interlocutory orders granting or refusing bail which are made appealable, and no other interlocutory orders, which is made clear in Section 21(1), which lays down that an appeal shall lie to the High Court from any judgment, sentence or order, not being an interlocutory order of a Special Court. Thus other interlocutory orders are not appealable at all. This is because as provided under Section 19 of the Act, the trial is to proceed on day to day basis. It is to be conducted expeditiously. Therefore, no appeal is provided against any of the interlocutory orders passed by the Special Court. The only exception to this provision is that orders either granting or refusing bail are made appealable under Section 21(4). This is because those orders are concerning the liberty of the accused, and therefore although other interlocutory orders are not appealable, an appeal is provided against the order granting or refusing the bail. Section 21(4), thus carves out an exception to the exclusion of interlocutory orders, which are not appealable under Section 21(1). The order granting or refusing the bail is therefore very much an order against which an appeal is permitted under Section 21(1) of the Act.

18. Section 21(2) provides that every such appeal under sub-Section (1) shall be heard by a bench of two Judges of the High Court. This is because of the importance that is given by the Parliament to the prosecution concerning the Scheduled Offences. They are serious offences affecting the sovereignty and security of the State amongst other offences, for the investigation of which this Special Act has been passed. If the Parliament in its wisdom has desired that such appeals shall be heard only by a bench of two Judges of the High Court, this Court cannot detract from the intention of the Parliament. Therefore, the interpretation placed by Mr. Ram Jethmalani on Section 21(1) that all interlocutory orders are excluded from Section 21(1) cannot be accepted. If such an interpretation is accepted it will mean that there will be no appeal against an order granting or refusing bail. On the other hand, sub-Section (4) has made that specific provision, though sub-Section (1) otherwise excludes appeals from interlocutory orders. These appeals under sub-Section (1) are to be heard by a bench of two Judges as provided under sub-Section (2). This being the position, there is no merit in the submission canvassed on behalf of the appellant that appeals against the orders granting or refusing bail need not be heard by a bench of two Judges.

19. We cannot ignore that it is a well settled canon of interpretation that when it comes to construction of a section, it is to be read in its entirety, and its sub- sections are to be read

in relation to each other, and not disjunctively. Besides, the text of a section has to be read in the context of the statute. A few sub-sections of a section cannot be separated from other sub-sections, and read to convey something altogether different from the theme underlying the entire section. That is how a section is required to be read purposively and meaningfully."
After analyzing the provisions of Section 21 of the NIA Act, the Supreme Court held in paragraph Nos. 27.1, 27.2 and 27.3, that an appeal from an order of the Special Court under NIA Act, refusing or granting bail shall lie only to a bench of two Judges of the High Court. it is also made clear that inasmuch as the applicant is being prosecuted for the offences under the MCOC Act, 1999, as well under The Unlawful Activities (Prevention) Act, 1967, such offences are triable only by Special Court, and therefore application for bail in such matters will have to be made before the Special Court under the NIA Act, 2008, and shall not lie before the High Court either under Section 439 or under Section 482 of the Code.Thus, where the NIA Act applies, the original application for bail shall lie only before the Special Court, and appeal against the orders therein shall lie only to a bench of two Judges of the High Court.

50. In **State of Gujrat Vs. Salimbhai Abdul Gaffar Shaikh and Ors** reported in **(2003) 8 SCC 50**, Section 34 of POTA came up for consideration before the Hon'ble Supreme Court, which is being reproduced as under:-

"34. (1) Notwithstanding anything contained in the Code, an appeal shall lie from any judgment, sentence or order, not being an interlocutory order, of a Special Court to the High Court both on facts and on law.
(2) Every appeal under sub-section (1) shall be heard by a bench of two Judges of the High Court.
(3) Except as aforesaid, no appeal or revision shall lie to any court from any judgment, sentence or order including an interlocutory order of a Special Court.
(4) Notwithstanding anything contained in sub-section (3) of Section 378 of the Code, an appeal shall lie to the High Court against an order of the Special Court granting or refusing bail.
(5) Every appeal under this section shall be preferred within a period of thirty days from the date of judgment, sentence or order appealed from;
Provided that the High Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of thirty days."

51. Hon'ble Supreme Court in *State of Gujrat Vs. Salimbhai Abdul Gaffar Shaikh and Ors* (supra) after examining the provisions of Section 34 of the POTA held as under:-

> *10. Sub-section (4) of Section 34 of POTA provides for an appeal to the High Court against an order of the Special Court granting or refusing bail. Though the word 'appeal' is used both in Code of Criminal Procedure and Code of Civil Procedure and in many other Statutes but it has not been defined anywhere. Over a period of time, it has acquired a definite connotation and meaning which is as under :-*
>
> > *"A proceeding undertaken to have a decision reconsidered by bringing it to a higher authority, specially the submission of a lower Court's decision to higher Court for review and possible reversal.*
> >
> > *An appeal strictly so called is one in which the question is, whether the order of the Court from which the appeal is brought was right on the material which the Court had before it.*
> >
> > *An appeal is removal of the cause from an inferior to one of superior jurisdiction for the purposes of obtaining a review or retrial. An appeal generally speaking is a rehearing by a superior Court on both law and fact."*
>
> *11. Broadly speaking, therefore, an appeal is a proceeding taken to rectify an erroneous decision of a Court by submitting the question to a higher Court, and in view of express language used in sub-section (1) of Section 34 of POTA the appeal would lie both on facts and on law. Therefore even an order granting bail can be examined on merits by the High Court without any kind of fetters on its powers and it can come to an independent conclusion whether the accused deserves to be released on bail on the merits of the case. The considerations which are generally relevant in the matter of cancellation of bail under sub-section (2) of Section 439 of the Code will not come in the way of the High Court in setting aside an order of the Special Court granting bail. It is therefore evident that the provisions of POTA are in clear contradistinction with that of Code of Criminal Procedure where no appeal is provided against an order granting bail. The appeal can lie only against an order of the Special Court and unless there is an order of the Special Court refusing bail, the accused will have no right to file an appeal before the High Court praying for grant of bail to them. Existence of an order of the Special Court is, therefore, sine qua non for approaching the High Court.*
>
> *12. Shri Amarendera Sharan, learned senior counsel for the respondents has submitted that the power of the High Court to grant bail under Section 439 Cr.P.C. has not been taken away by POTA and consequently the learned Single Judge had the jurisdiction to grant bail to the respondents in exercise of the*

power conferred by the aforesaid provision. Learned counsel has laid great emphasis upon Section 49 of POTA, especially Sub-section (5) thereof and has submitted that in view of the language used in this section, the power conferred upon the Court of Sessions and the High Court under Section 439 will remain intact. It has been urged that if the intention of the legislature was to make the provisions of Section 439 of the Code inapplicable in relation to offences under POTA, it would have made a provision similar to Sub-section (5) of Section 49 which expressly excludes the applicability of Section 438 Cr.P.C. We are unable to accept the contention raised by the learned counsel for the respondents. It is well settled principle that the intention of the legislature must be found by reading the Statute as a whole. Every clause of Statute should be construed with reference to the context and other clauses of the Act, so as, as far as possible, to make a consistent enactment of the whole Statute. It is also the duty of the Court to find out the true intention of the legislature and to ascertain the purpose of Statute and give full meaning to the same. The different provisions in the Statute should not be interpreted in abstract but should be construed keeping in mind the whole enactment and the dominant purpose that it may express. Section 49 cannot be read in isolation, but must be read keeping in mind the scope of Section 34 whereunder an accused can obtain bail from the High Court by preferring an appeal against the order of the Special Court refusing bail. In view of this specific provision, it will not be proper to interpret Section 49 in the manner suggested by learned counsel for the respondents. In A.R. Antulay v. Ramdas Srinivas Nayak & Anr. 1984 (2) SCC 500, the scope of special Act making provision for creation of a Special Court for dealing with offences thereunder and the application of Code of Criminal Procedure in such circumstances has been considered and it has been held that the procedure in Cr.P.C. gets modified by reason of a special provision in a special enactment.

13. Section 20 of TADA contained an identical provision which expressly excluded the applicability of Section 438 of the Code but said nothing about Section 439 and a similar argument that the power of the High Court to grant bail under the aforesaid provision consequently remained intact was repelled in Usmanbhai Dawoodbhai Menon v. State of Gujarat 1988 (2) SCC 271. Having regard to the scheme of TADA it was held that there was complete exclusion of the jurisdiction of the High Court to entertain a bail application under Section 439 of the Code. This view was reiterated in State of Punjab v. Kewal Singh 1990(Supp)SCC147.

14. That apart if the argument of learned counsel for the respondents is accepted, it would mean that a person whose bail under POTA has been rejected by the Special Court will

have two remedies and he can avail any one of them at his sweet will. He may move a bail application before the High Court under Section 439 Cr.P.C. in the original or concurrent jurisdiction which may be heard by a Single Judge or may prefer an appeal under Sub-section (4) of Section 34 of POTA which would be heard by a bench of two judges. To interpret a statutory provision in such a manner that a Court can exercise both appellate and original jurisdiction in respect of the same matter will lead to an incongruous situation. The contention is therefore fallacious.

15. In the present case, the respondents did not chose to apply for bail before the Special Court for offences under POTA and consequently there was no order of refusal of bail for offences under the said Act. The learned Single Judge exercising powers under Section 439 read with Section 482 Cr.P.C. granted them bail. The order of the High Court is clearly without jurisdiction as under the scheme of the Act the accused can only file an appeal against an order of refusal of bail passed by the Special Court before a Division Bench of the High Court and, therefore, the order under challenge cannot be sustained and has to be set aside. Even on merits the order of the High Court is far from satisfactory. Though it is a very long order running into 87 paragraphs but the factual aspects of the case have been considered only in one paragraph and that too in a very general way.

16. The High Court has also invoked powers under Section 482 Cr.P.C. while granting bail to the respondents. Section 482 Cr.P.C. saves the inherent power of the High Court. The High Court possesses the inherent powers to be exercised ex debito justitiae to do the real and substantial justice for the administration of which alone Courts exist. The power has to be exercised to prevent abuse of the process of the Court or to otherwise secure the ends of justice. But this power cannot be resorted to if there is a specific provision in the Code for the redress of the grievance of the aggrieved party. (See Madhu Limaye v. State of Maharashtra AIR 1978 SC. There being a specific provision for grant of bail, the High Court clearly erred in taking recourse to Section 482 Cr.P.C. while enlarging the respondents on bail."

52. Thus, in the light of the ratio laid down by the Supreme Court in the decisions discussed herein above, it may cull out that the intention of the legislature in incorporating clauses (1) and (2) of Section 14A of the Amendment Act, 2015 is clear and suggests that appeals against all orders, sentence and judgment are to be preferred to the High Court on facts as well as on law and must be respected. Such intention

of the legislature could be found by reading the statute as a whole. Every clause of a statute should be construed with reference to the constraints and other explanations of the Act as far as possible to make a statute meaningful. It is the duty of the Court to find out the true intention of the legislature and to ascertain the purpose of the statute and give full meaning to the same. The different provisions in the statute should not be interpreted in isolation to achieve an alien object which was never intended, but these provisions must be construed harmoniously keeping in view the whole enactment and object of the Act, which it want to achieve. From the plain reading of the Section 14A of Act of 1989, one cannot ignore the fact that the said section starts with a non obstante clause. The intention of the legislation is loud and clear from the fact that Section 14A provides the exclusive remedy of filing appeal notwithstanding what has been provided under the CrPC and in this regard the emphasis is on the forum which has passed the sentence , judgment or order (special Court or Exclusive Special Court) and also on the forum where such appeals may be filed (High Court). It is also to be noticed that by providing this the legislature has done away with the necessity of state seeking leave to appeal in cases of acquittal under Section 378(3) of the CrPC in order to challenge a judgment of acquittal and appeals against acquittals may now be filed without seeking any such leave to appeal. Thus, any appeal against any sentence, judgment or order, not being an interlocutory order, passed by a Special Court or an exclusive Special Court shall now lie to the High Court, both on facts as well as on law and can only be entertained under Section 14A of the Act. The use of the terms ‘any judgment, sentence or order’ fortifies that against a judgment and order of conviction or of acquittal, the remedy of appeal is made available only under Section 14A of the Atrocities Act and it does not make any difference if the accused persons have been acquitted by the Special court or Exclusive Special Court with regard to offences under Act of 1989, as the judgment has been passed by none other than the Special court or

Exclusive Special Court which could only be challenged by filing appeal under Section 14A of the Atrocities Act.

53. In our considered opinion the Division Bench of this Court in *Teja Vs. State of U.P. and another* (supra) failed to consider the Scheme of the Act of 1989 and its Amending Act of 2015 in the right perspective and has altogether ignored the non-obstante clause emerging under Section 14-A of the Act of 1989 as well as the provisions of Sections 4 and 5 of the CrPC and Section 20 of the Act of 1989 which gives overriding effect to the Act of 1989 vis-a-vis the CrPC. The Division Bench of this Court in *Teja Vs. State of U.P. and another* (supra) appears to have given unnecessary importance to the fact that in an appeal against conviction of the accused person only under the provisions of the IPC, the appellate Court may not be in a position to convict him for the offence committed under the Act of 1989 wherein he has already been acquitted by the Special Court or by the Exclusive Special Court, as the case may be. The Division Bench of this Court, in our considered opinion, has not considered this aspect of the matter, that, in case of acquittal of accused persons with regard to offences under the atrocities Act, a victim or even the State is entitled to file an appeal under Section 14-A of the Act of 1989 and if the reasoning of the Division Bench in *Teja Vs. State of U.P. and another* (supra) is accepted then the appeal against acquittal for the offences committed under the Act of 1989 would be preferred by the victim as well as by the State under Section 14-A of the Act of 1989 while a person who has been acquitted for offence under the Act of 1989 and convicted only under IPC would prefer an appeal under Section 374 CrPC, therefore, against the same judgment the parties would be at liberty to prefer an appeal under different sections, which could not be the Scheme of the Act of 1989.

54. The Division Bench in *Teja Vs. State of U.P. and another* (supra), in our considered view, has failed to understand the words purposely used in Section 14-A of the Act of 1989 where emphasis has been given on the words *'any judgment, sentence or order'*.Thus,

notwithstanding anything contained in the CrPC an appeal would lie *from any judgment, sentence or order not being an interlocutory order* passed by a Special Court or by an Exclusive Special Court to the High Court, both on facts and law. The use of words 'any judgment, sentence or order' does not leave any doubt that all orders passed by the Special Court or the Exclusive Special Court either of acquittal, conviction or of any other nature, except interlocutory order, could only be challenged under Section 14-A of the Act of 1989 before the High Court, on facts as well as on law. The only exception has been carved out pertaining to the order passed refusing or granting of bail, only on account of the fact that the same involves the personal liberty of a person. Therefore, for us, where it is a judgment of acquittal, conviction or acquittal in IPC and conviction under offences provided under the Act of 1989 or vice versa, in all such cases appeal would lie before the High Court both on facts and law, only and only under Section 14-A of the Act of 1989.

55. Thus, on the basis of the reasoning given herein above, we answer the questions referred to us in the following manner:-

> *Question-(I) What would be the remedy available to a person who may have been acquitted of the offences under the provisions of the Act, 1989 but convicted for offences under the provisions of IPC i.e. whether to file an appeal under the provisions of the Code or an appeal under the provisions of Section 14A(1) of the Act, 1989 when the judgment is by a Special Court or an Exclusive Special Court?*
>
> ***Answer-(I) A person who has been acquitted of the offences under the provisions of the Act of 1989 but convicted for the offences under the IPC can prefer an appeal only under the provisions of Section 14-A(1) of the Act of 1989 against the judgment of Special Court or Exclusive Special Court, as the case may be.***
>
> *(II) Whether the Division Bench in it's order in the case of Teja (supra) has correctly held that in case an accused person has been acquitted of the charges of offences under the Act, 1989 then he can file an appeal under the provisions of the Code even though when the judgment is of the Special Court or an Exclusive Court?*
>
> ***Answer-(II). The Division Bench in Teja Vs. State of U.P. and another (supra) has taken an erroneous view in total ignorance of the non obstante clause emerging under***

Sections 14-A and overriding effect provided to Act of 1989. under section 20 of the Act of 1989 as well as Sections 4 and 5 of the CrPC. and the same is contrary to the Scheme of the Act of 1989 and is not a good law and the same is hereby overruled.

56. Above questions framed for the consideration of this Larger Bench are answered accordingly. Let the above criminal appeals, having regard to the current constitution, be placed before the respective learned Single Judges for being decided on merits accordingly.

[Mohd. Faiz Alam Khan,J.][Karunesh Singh Pawar, J.][Vivek Chaudhary, J.]

Order Date :- 24.1.2025
MVS/-

Digitally signed by :-
MANOJ VIKRAM SINGH CHAUHAN
High Court of Judicature at Allahabad,
Lucknow Bench