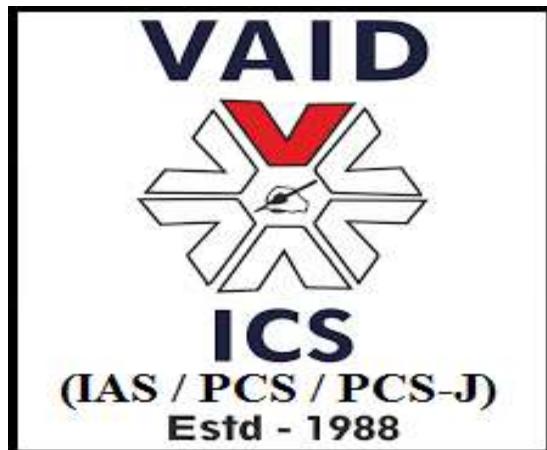


# VAID ICS LAW



(MONTHLY LEGAL CURRENT)

(Dec/Jan 2026)

UPPCS-J/APO/OTHER JUDICIAL EXAMS

## Article: Should the age of consent be lowered?

**Why in News ?** On January 10, the Supreme Court (SC), in its judgment in the *State of Uttar Pradesh versus Anurudh & Anr.*, acknowledged the growing misuse of the Protection of Children from Sexual Offences Act (POCSO), 2012 in consensual, romantic adolescent relationships, where one party is a minor.

### The Legal Framework:

In India, the **POCSO Act (2012)** and **Bharatiya Nyaya Sanhita (2023)** fix the age of consent at **18 years**.

- **Status:** Any sexual act with a person under 18 is "statutory rape," regardless of consent.
- **History:** The age has evolved from 10 years (1860) to 12, 14, 16, and finally 18 in 2012.
- **Mandatory Reporting:** Section 19 of POCSO requires anyone aware of such an act to report it to the police, leaving no room for "private" consensual adolescent relationships.

### Arguments in Favour (of Lowering the Age):

Advocates for lowering the age to 16 argue that the current law ignores the reality of adolescent sexuality.

- **Autonomy:** 16-18-year-olds are often capable of mature consent; the law should target abuse, not romance.
- **Data on Misuse:** Studies (like those by Enfold) show nearly **25% of POCSO cases** involve consensual romantic relationships. Often, parents "weaponize" the law against their daughters' partners.
- **Global Standards:** Many Western nations use a 16-year threshold or "Romeo-Juliet" clauses (exemptions for peers close in age).

## The Challenge:

Lowering the age presents significant risks to child safety.

- **Deterrence:** A "bright-line" rule at 18 prevents predators from using "consent" as a legal loophole for trafficking or exploitation.
- **Position of Trust:** Over 50% of child abuse is committed by known individuals (teachers, family). In these cases, "consent" is often coerced or manipulated.
- **Institutional Resistance:** Parliament and the Law Commission (2023) have consistently rejected lowering the age, fearing it would undermine efforts against child marriage and prostitution.

## Legal Opinions:

Courts are currently divided between the "letter of the law" and "human dignity."

- **Empathetic View:** The Delhi and Bombay High Courts have noted that adolescent love should be free from exploitation, but also free from unnecessary criminalization. **Justice Nagarathna (SC)** recently highlighted the "trauma" girls face when their partners are jailed due to parental disapproval.
- **Strict View:** The Supreme Court reaffirmed in 2024 that "consent is legally immaterial" under 18, though it occasionally uses extraordinary powers (Article 142) to waive sentences in specific, non-exploitative cases.

## The Road Ahead:

The path forward requires a balance between protection and reality.

- **Judicial Clarity:** The SC needs to bridge the gap between strict statutes and empathetic High Court rulings to ensure consistency.
- **Holistic Approach:** Beyond law, India needs comprehensive sex education, better reproductive health services, and gender-sensitive policing.

## Conclusion:

Rather than a blanket reduction of the age—which might empower predators—a **nuanced recalibration** is suggested. This includes:

1. **"Close-in-age" exemptions** for 16-18-year-olds with a small age gap (3-4 years).
2. **Mandatory court reviews** to distinguish genuine romance from abuse.

3. **Strengthening school programs** on healthy relationships and emotional resilience.

## **Palermo Protocol**

**Palermo Protocol (UN, 2000):** Defines child trafficking as the "recruitment, transportation, transfer, harbouring, or receipt of a child for the purpose of exploitation."

- **Bhartiya Nyaya Sanhita (BNS) 2023 - Section 143:** Provides a stringent domestic definition. It includes the act of recruiting or transporting persons using **threats, force, fraud, or abuse of power** for exploitation.
- **Scope of "Exploitation":** This term covers:
  - Physical and sexual exploitation.
  - Slavery and servitude.
  - Forced removal of organs.
  - **Beggary** (newly highlighted under BNS).

### **Constitutional Safeguards:**

- **Article 23:** Explicitly prohibits human trafficking and *begar* (forced labor).
- **Article 24:** Prohibits the employment of children below 14 years in factories, mines, or hazardous industries.
- **Article 39 (e) & (f):** Directs the State to ensure children are not abused and are protected against moral and material abandonment.

### **Alarming Statistics:**

- **Rescue Operations:** Between April 2024 and March 2025, over **53,000 children** were rescued from labor, trafficking, and kidnapping.
- **Gender Vulnerability:** Recent reports (2022 data) indicate that nearly **75% of missing children are girls**, often targeted for domestic servitude and sexual exploitation.
- **The Conviction Gap:** Despite high rescue numbers, the conviction rate remained a dismal **4.8%** between 2018 and 2022.

### **Major Challenges:**

- **Socio-Economic Triggers:** Poverty, unemployment, migration, and the breakdown of family systems create a "supply chain" for traffickers.
- **The Digital Frontier:** Social media and online platforms are increasingly used to recruit victims under the guise of "modelling jobs" or educational opportunities.

- **Invisible Labor:** The rise of **quick-commerce (dark stores)** and unregulated sorting hubs has created hidden pockets for child labor.
- **Organized Complexity:** Trafficking operates through "disjointed verticals" (different people handle recruitment, transport, and exploitation), making it difficult for victims to provide a cohesive narrative in court.

#### **Steps Taken: Legal & Judicial Framework:**

##### **Key Legislations**

- **POCSO Act, 2012:** Gender-neutral law with strict punishments (including death penalty). Over **400 Fast Track Courts** are currently operational.
- **Juvenile Justice (JJ) Act, 2015:** Focuses on the care, protection, and rehabilitation of rescued children.
- **BNS 2023:** Consolidates crimes against women and children into a priority chapter (Chapter V). Section 143 prescribes **life imprisonment** for trafficking children or multiple persons.

##### **Pivotal Judicial Guidelines (K.P. Kiran Kumar vs. State, 2025):**

The Supreme Court established a **victim-centric standard** for evidence:

- **"Injured Witness" Status:** Trafficked children are to be treated as injured witnesses, not "accomplices."
- **Sensitivity & Realism:** Courts must not reject a victim's testimony due to minor inconsistencies, recognizing the trauma and secondary victimization they face.
- **Fixed Timelines:** High Courts have been directed to ensure trafficking trials are completed within **six months**.

##### **Operational Measures:**

- **Anti-Human Trafficking Units (AHTUs):** Established in almost every district to specialize in these cases.
- **Operation AAHT (Railways):** A successful RPF initiative that has rescued thousands of children at transit points.
- **Digital Portals:** Integration of **TrackChild** and **Mission Vatsalya** to monitor missing and rescued children in real-time.

**Way Forward & Conclusion:**

- **Improve Conviction Rates:** Move from a "rescue-only" approach to a "conviction-first" approach by training prosecutors on the nuances of organized crime.
- **Center-State Synergy:** Since "Police" is a State subject, the Union must provide financial and intelligence support while States ensure ground-level implementation.
- **Tech-Driven Prevention:** Utilize **AI and data analytics** to map trafficking "hotspots" and monitor suspicious online recruitment trends.
- **Economic Rehabilitation:** Government must guarantee the socio-economic rights of marginalized families to prevent children from being pushed back into the trafficking cycle.

**Conclusion:**

Child trafficking is not just a law-and-order issue but a gross violation of the **Fundamental Right to Life**. While India has built a formidable legal fortress with the BNS and POCSO, the "human factor"—judicial sensitivity and systemic deterrence—will determine if the 53,000 rescued children find permanent freedom or remain statistics in a low-conviction system.

**Article based mains Qn:**

- Despite a robust legal architecture including the POCSO Act and the newly enacted Bhartiya Nyaya Sanhita (BNS), the conviction rate for child trafficking in India remains alarmingly low. Critically analyze the socio-economic and systemic challenges in curbing this menace and suggest a multi-dimensional strategy to ensure a 'conviction-led' deterrence." 200 words

**Uttar Pradesh Subordinate Police Officers (Punishment and Appeal) Rules, 1991:**

**Why in the News?** On January 19, 2026, three police officers from the Kakori police station—SI Usman Khan, SI Lakhman Singh, and Constable Pushpendra Singh—were suspended following a high-drama incident at the Lucknow Bench of the Allahabad High Court.

- **The Incident:** The officers allegedly entered the High Court campus without authorization to arrest an advocate (**Gurfaan Siddiqui**) and his client (**Amina Khatoon**) inside an advocate's chamber.
- **The Context:** The arrest attempt was related to a case under the **UP Prevention of Cow Slaughter Act**.
- **The Reaction:** The move was met with immediate outrage by the Bar Association, who viewed it as a direct violation of the "Temple of Justice" and an intimidation of the legal fraternity.

### Key Points of the Case:

- **Unlawful Entry:** The police lacked the required "Gate Pass" or specific permission from the High Court's Security Registrar to conduct an arrest within the high-security zone.
- **Criminal Charges:** Unlike a standard departmental inquiry, an **FIR** was registered against the cops under the **Bharatiya Nyaya Sanhita (BNS)**:
  - **Section 329(3):** Criminal trespass.
  - **Section 351(3):** Criminal intimidation.
  - **Section 352:** Provocation with intent to cause breach of peace.
- **Suspension Clause:** They were suspended under **Rule 17(1)(a)** of the *UP Subordinate Police Officers (Punishment and Appeal) Rules, 1991*, which allows for suspension during a pending inquiry for serious misconduct.

### Legal & Constitutional Provisions:

This incident touches upon several critical legal frameworks regarding the separation of powers and the protection of legal professionals.

#### A. Bharatiya Nyaya Sanhita (BNS) & BNSS:

- **Sanctity of Chambers:** A lawyer's chamber is considered a private extension of the judicial workspace. Unauthorised entry with the intent to "annoy or intimidate" constitutes **Criminal Trespass**.
- **Arrest Procedure:** Under the **Bharatiya Nagarik Suraksha Sanhita (BNSS)**, police must follow strict protocols for arrests, especially when the person is under the protection of legal counsel.

### Constitutional Protections:

- **Article 21:** Protection of Life and Personal Liberty. The Supreme Court has repeatedly held that "procedure established by law" for arrest must be fair and non-arbitrary.
- **Article 22:** Right to consult and be defended by a legal practitioner of one's choice. Entering a court to arrest a client while they are consulting their lawyer is seen as a **violation of this right**.

### Related Case Law & Precedents:

The judiciary has historically been very protective of its premises to ensure that litigants and lawyers can attend court without fear of arbitrary detention.

- **D.K. Basu vs. State of West Bengal:** The landmark judgment that laid down the "11 Commandments" of arrest. The Lucknow cops failed to disclose their identity properly and didn't provide memo details during the attempted "campus arrest."
- **Pratibha Pawar vs. State of Maharashtra:** Courts have held that while court premises don't provide "absolute immunity" from arrest for criminals, the police **must** inform the presiding officer or the Registrar before conducting such an operation to maintain the dignity of the court.
- **Supreme Court Bar Association vs. Union of India:** Stressed that the independence of the legal profession is a fundamental pillar of the justice system; police intimidation of lawyers within court grounds is a "contemptuous" act.

### About Uttar Pradesh Subordinate Police Officers (Punishment and Appeal) Rules, 1991:

The **Uttar Pradesh Subordinate Police Officers (Punishment and Appeal) Rules, 1991** were framed under the Police Act, 1861. They provide the legal framework for maintaining discipline and conducting departmental inquiries against non-gazetted police officers (from Constables to Sub-Inspectors) in Uttar Pradesh.

### Scope and Application:

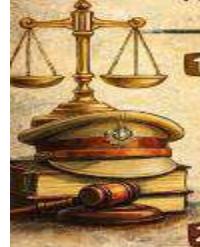
- **Applicability:** These rules apply to all "Subordinate Ranks" of the UP Police (Inspectors, Sub-Inspectors, Assistant Sub-Inspectors, Head Constables, and Constables).
- **Authority:** The rules empower senior officers (SP, DIG, IG) to punish subordinates for misconduct, negligence, or unfitness.

**VAID ICS LAW**

**UTTAR PRADESH SUBORDINATE POLICE  
OFFICERS (PUNISHMENT AND APPEAL) RULES, 1991**

Framed under the Police Act, 1861

**— KEY SUMMARY POINTS! —**



**1. SCOPE & APPLICATION**

- Covers all "Subordinate Ranks" from Inspectors to Constables of the UP Police
- Empowers senior officers to punish subordinates for misconduct, negligence, or unfitness.



**2. KEY RULES ON PUNISHMENT**

**Rule 4: Major Punishments**

- Dismissal or Removal from service
- Reduction in rank (Demotion)
- Compulsory retirement

**Rule 5: Minor Punishments**

- Censure
- Withholding of increments
- Fine (not exceeding one month's pay)





**3. RULE 14: PROCEDURE FOR MAJOR PENALTY**

- Charge Sheet
- Regular Departmental inquiry
- Right to cross-examine witnesses and produce evidence
- Finder Report submitted to the Punishing Authority

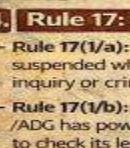
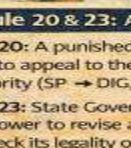



**4. Rule 17: SUSPENSION**

- **Rule 17(1/a):** An officer may be suspended when a departmental inquiry or criminal charge is pending
- **Rule 17(1/b):** State Government / DGP / ADG has power to revise an order to check its legality or propriety.

**5. Rule 20 & 23: APPEALS &**

- **Rule 20:** A punished officer has right to appeal to the next higher authority (SP → DIG, DIG → IG)
- **Rule 23:** State Government / DGP / AGG has power to revise an order to check its legality or propriety.

## Key Rules on Punishment:

The rules categorize punishments into two types:

### Rule 4: Major Punishments:

- Dismissal or Removal from service.
- Reduction in rank (Demotion).
- Compulsory retirement.

### Rule 5: Minor Punishments:

- Censure (a formal entry of dissatisfaction in the service record).
- Withholding of increments.
- Fine (not exceeding one month's pay).
- Fatigue duty (for Constables).

#### **Rule 14: Procedure for Major Penalty:**

This is the most critical procedural section.

- It mandates a **Regular Departmental Inquiry**.
- The officer must be given a **Charge Sheet** with specific allegations.
- The accused has the right to cross-examine witnesses and produce evidence in their defense.
- A "Finding Report" is prepared by the Inquiry Officer and submitted to the Punishing Authority.

#### **Rule 17: Suspension:**

This rule governs the temporary removal of an officer from active duty.

- **Rule 17(1)(a):** An officer can be suspended when a departmental inquiry or a **criminal charge** is contemplated or pending.
- **Rule 17(1)(b):** Suspension is mandatory if the officer is detained in custody for more than 48 hours.
- **Status:** While under suspension, the officer is not "fired" but is barred from duty and receives a "Subsistence Allowance."

#### **Rule 20 & 23: Appeals and Revisions:**

- **Rule 20 (Appeal):** An officer punished under these rules has the right to appeal to the next higher authority (e.g., if the SP punishes, the appeal goes to the DIG).
- **Rule 23 (Revision):** The State Government or a high-ranking officer (DGP/ADG) can call for the records of any case to check the legality or propriety of an order, even if no appeal was filed.

#### **Rule 24: Time Limit:**

- The rules generally stipulate that an appeal must be filed within **90 days** of the punishment order.

### Article based Mains Qn:

- Discuss the legality of a police officer enter into judicial precinct for the purpose of arrest. Does such an act attract criminal liability under the Bharatiya Nyaya Sanhita (BNS)." 200 words

## Rajasthan Disturbed Areas Bill, 2026:

**Why in News?** On January 21, 2026, the Rajasthan Cabinet, chaired by Chief Minister Bhajan Lal Sharma, approved the draft of this bill.

- Legislative Timeline:** The bill is set to be introduced in the upcoming Budget Session of the State Assembly starting January 28, 2026.
- Core Objective:** The government aims to prevent "**Distress Sales**" in communally sensitive areas. It argues that communal tension and "**Demographic Imbalance**" often force residents to sell their properties at throwaway prices.

### Key Features of the Act:

- Declaration of Disturbed Area:** The State Government or the District Collector can notify any riot-affected or communally sensitive area as a "**Disturbed Area**" for an initial period of **3 years** (extendable).
- Mandatory Permission:** No person can transfer (sell, gift, or lease) immovable property (house, shop, or land) in a notified area without the **prior written permission of the District Collector**.
- Collector's Inquiry:** Before granting permission, the Collector must conduct an inquiry to ensure:
  1. The transfer is happening with **Free Consent**.
  2. The property is being sold at **Fair Market Value**.
  3. The transfer does not adversely affect the **Demographic Structure** or peace of the area.
- Void Transactions:** Any property transaction conducted without official approval will be considered **null and void** under the law.

- **Tenant Protection:** The bill provides a safety net for tenants in these areas, protecting them from arbitrary or forced eviction by landlords during periods of unrest.

#### **Penal Provisions:**

The bill introduces strict penalties to ensure compliance:

- **Nature of Offence:** Violations are classified as **Cognizable** and **Non-bailable**.
- **Imprisonment:** Offenders may face a jail term ranging from **3 to 5 years**.
- **Fines:** Hefty monetary penalties will be imposed alongside imprisonment.

#### **Legal and Constitutional Context:**

- **Inspiration:** The bill is modeled after the **Gujarat Disturbed Areas Act, 1991**, which has faced various legal challenges but remains operational.
- **Right to Property (Article 300A):** While property is no longer a Fundamental Right (post the 44th Amendment), it remains a **Constitutional Right**. Critics argue this law creates an "unreasonable hurdle" in a citizen's right to dispose of their property.
- **Fundamental Freedoms (Articles 15 & 19):** Human rights activists express concern that the law might lead to "Ghettoization" (segregation of communities) and could violate the right to reside and settle in any part of India (**Article 19(1)(e)**).
- **Government's Defense:** The State invokes "**Reasonable Restrictions**" under Article 19(5), stating that the government has the power to restrict property transfers in the interest of **Public Order** and to prevent communal displacement.

#### **AFSPA (Armed Forces Special Powers Act, 1958):**

This is the most well-known use of the term.

- **Definition:** An area is declared "disturbed" if it is in such a dangerous condition that the use of **armed forces** in aid of civil power is necessary.
- **Criteria:** Section 3 of AFSPA states that an area can be declared disturbed due to differences or disputes between religious, racial, linguistic, or regional groups, castes, or communities.
- **Who declares it?** The Central Government, the Governor of a State, or the Administrator of a Union Territory.

- **Legal Effect:** Once declared, the armed forces gain special powers, such as the authority to arrest without a warrant and use force (even causing death) to maintain public order.

#### **The Disturbed Areas (Special Courts) Act, 1976:**

This act is focused on the judiciary rather than the military.

- **Definition:** An area where there is (or was) "extensive disturbance of the public peace and tranquillity" due to communal, racial, or linguistic disputes.
- **Legal Effect:** The primary purpose is to set up **Special Courts** for the speedy trial of "scheduled offences" (like rioting or murder) committed during the period of disturbance.

#### **Article based Mains Qn:**

"While the right to property under Article 300A is not a fundamental right, it remains a significant constitutional protection against arbitrary state action." In the context of the **Rajasthan Disturbed Areas Bill, 2026**. Examine 200 words

#### **Menstrual Health is a Fundamental Right**

##### **Background: Dr. Jaya Thakur v. Government of India and Ors. (2026):**

The journey of this case began as a **Public Interest Litigation (PIL)** aimed at addressing the systemic barriers faced by adolescent girls in educational institutions.

- **Initial Filing:** The petition sought the provision of free sanitary napkins and proper, separate toilet facilities for all adolescent girls in schools.
- **Judicial Timeline:**
  - **November 28, 2022:** The Supreme Court (Bench of CJI DY Chandrachud and Justice PS Narasimha) issued notices to the Centre and all States/UTs.

- **April 10, 2023:** The Court directed the Central Government to frame a **National Policy on Menstrual Hygiene**. It emphasized low-cost absorbents and safe disposal mechanisms.
- **November 12, 2024:** The Union Government was directed to formulate a concrete action plan for the implementation of the national policy.
- **January 30, 2026:** The final judgment was delivered by the bench of Justices JB Pardiwala and R Mahadevan.

#### **Key Court Observations:**

The Court's observations moved beyond administrative requirements to address the **bodily autonomy** and **dignity** of the girl child.

- **Menstrual Health as Article 21:** The Court declared that the **Right to Menstrual Health** is an integral part of the **Right to Life**.
- **Bodily Autonomy:** Lack of safe management undermines a dignified existence and violates a girl's autonomy over her own body.
- **Health Implications:** Justice Pardiwala noted that poor hygiene leads to reproductive tract infections (e.g., bacterial vaginosis) and potential infertility, which constitute a violation of the right to health.
- **Societal Message:** The judgment aimed to communicate to every girl child that her body and its natural biological processes should **not be perceived as a burden**.

#### **Comprehensive Court Directions:**

The Court issued specific, mandatory directions for pan-India implementation in schools (Classes 6-12):

#### **Infrastructure and Facilities:**

- **Gender-Segregated Toilets:** All schools (Govt/Private, Urban/Rural) must have functional, separate toilets with water connectivity.
- **Privacy & Accessibility:** Toilets must be designed for privacy and be accessible to children with disabilities.
- **Washing Facilities:** Functional washing facilities with constant soap and water supply.
- **Free Absorbents:** Provision of free **oxo-biodegradable sanitary napkins** within toilet premises via vending machines.
- **MHM Corners:** Establishment of "Menstrual Hygiene Management Corners" containing spare innerwear, uniforms, and disposable pads for emergencies.

### **Sanitary Waste Disposal:**

- **Environmental Compliance:** Schools must establish hygienic disposal mechanisms as per **Solid Waste Management Rules**.
- **Wastebins:** Each toilet unit must have covered wastebins with a strict cleaning and maintenance schedule.

### **The Four Constitutional Questions Examined:**

#### **Question 1: Violation of Article 14 (Equality):**

The Court held that the absence of these measures converts a **biological reality into structural exclusion**. Menstruating girls face a double disadvantage—socio-economic (affordability) and gender-based (against non-menstruating counterparts). Substantive equality requires the State to remedy these structural disadvantages.

#### **Question 2: Part of Article 21 (Life and Dignity):**

The Court answered **Yes**. Inaccessibility forces girls into absenteeism or unsafe practices (using rags, ash, or husk), which violates human dignity. Since privacy is linked to dignity, the State is obligated to provide a private environment for menstrual management.

#### **Question 3: Right to Participation and Opportunity:**

The lack of clean washrooms and absorbents causes "leakage anxiety" and embarrassment. This strips away the right to participate on equal terms in school, leading to a "domino effect" that limits future participation in professional and public life.

#### **Question 4: Violation of Article 21A (Right to Education):**

Under the **RTE Act 2009**, education must be "quality-driven." If a biological process becomes a barrier to attending school, the Right to Education is rendered illusory. Non-compliance can now lead to **derecognition** for private schools or State accountability for government institutions.

### **V. Understanding Article 21 of the Constitution:**

### **Overview:**

- **Definition:** "No person shall be deprived of his life or personal liberty except according to procedure established by law."
- **The "Heart of Fundamental Rights":** It is not merely about physical survival but includes the right to live with **human dignity**.
- **Applicability:** Available to both citizens and foreigners.
- **Protection:** Provided primarily against State action.

### **Evolution through Case Laws:**

1. **Kharak Singh v. State of UP (1963):** "Life" means more than "animal existence"; it includes all limbs and faculties by which life is enjoyed.
2. **Francis Coralie Mullin v. Administrator (1981):** Embodies a constitutional value of supreme importance; any act that degrades human dignity is a violation.
3. **Jaya Thakur v. GOI (2026):** Establishes menstrual health and hygiene as a non-negotiable component of a dignified life.

## **Judicial Intelligence vs. Artificial Intelligence: The Case of Gummadi Usha Rani (2025)**

The Andhra Pradesh High Court, through Justice Ravi Nath Tilhari, has delivered a crucial precedent regarding the intersection of technology and the law in **Gummadi Usha Rani v. Sure Mallikarjuna Rao (2025)**.

### **Core Legal Ruling:**

The High Court held that the mere inclusion of **non-existent citations** generated by Artificial Intelligence (AI) does not automatically invalidate (*vitiate*) a judicial order, provided:

1. The **legal principles** applied in the order are correct under the law of the land.
2. The **application of the law** to the specific facts of the case is sound.
3. The order is supported by **independent reasoning** and judicial application of mind.

### Background of the Case:

- **Trial Court Action:** A judicial officer upheld an "Advocate Commissioner's Report" as a valuable piece of evidence.
- **The AI Error:** While drafting the order, the officer used an AI tool for research and included citations that were later found to be fabricated/non-existent because they were not verified manually.
- **The Challenge:** Petitioners moved the High Court to set aside the order, arguing that an order based on "phantom" or non-existent authorities is illegal and lacks judicial character.
- **Trial Court's Reasoning:** Despite the faulty citations, the officer had recorded that a Commissioner's report should only be rejected if there is proof of bias or misconduct; otherwise, it is a matter of evidence for the trial stage.

### Observations of the High Court:

The High Court dismissed the petition based on the following observations:

#### A. Substance over Form:

The Court ruled that if the "view taken" by the judge is perfectly justified and has the support of actual law, the "mere mentioning" of incorrect rulings is a technical error that does not cause prejudice to the parties.

#### B. Rule of Interference:

Interference by a higher court is warranted only if:

- The principle of law applied is **not** the law of the land.
- The application of the law is fundamentally flawed *because* of the reliance on the AI-generated hallucination.

#### C. The Role of Evidence:

The Court noted that the Commissioner's report is not a final judgment but a piece of evidence. Petitioners retain the right to cross-examine and raise objections during the final hearing.

### Judicial Caution: The Perils of Unregulated AI:

While the Court did not quash the order, it issued a stern **cautionary note** regarding "blind reliance" on AI in judicial writing:

- **Fabrication of Authorities:** AI tools often "hallucinate," producing persuasive-sounding legal arguments that cite cases that simply do not exist.
- **Lack of Comprehension:** AI may fail to understand the nuance of a legal query or overlook binding material authorities from superior courts.
- **Actual Intelligence (RI) > Artificial Intelligence (AI):** Justice Tilhari emphasized that the **application of actual intelligence** by a human judge must remain the primary driver of judicial decision-making.
- **Verification:** Legal professionals and judges must rigorously scrutinize AI outputs. AI should be a tool for efficiency, not a substitute for the judicial mind.

### Concerns with AI in Legal Practice:

- **Privacy:** Unregulated AI usage in courts raises significant data privacy and confidentiality concerns.
- **Public Trust:** Reliance on fabricated data can damage the public's confidence in the accuracy and integrity of the judiciary.
- **Incompleteness:** AI models are trained on specific datasets and may lack access to the latest amendments or the full body of relevant case law.

### Conceptual Definition: What is an "Order"?

To understand the context of this case, one must distinguish between the various expressions of a Civil Court under the **Code of Civil Procedure (CPC)**.

#### Definition

Under **Section 2(14)** of the CPC, an "Order" means the formal expression of any decision of a Civil Court which is **not a decree**.

#### Comparison: Decree vs. Order

Feature	Decree	Order
Origin	Arises from the presentation of	May arise from a suit, application, or

Feature	Decree	Order
	a <b>Plaint</b> (Suit).	petition.
<b>Nature</b>	Can be Preliminary, Final, or Partly both.	<b>Cannot</b> be a Preliminary order.
<b>Frequency</b>	Usually one decree per suit.	Multiple orders can be passed in one suit.
<b>Appealability</b>	Every decree is appealable (unless barred).	Only specific orders (under Sec 104/Order 43) are appealable.
<b>Second Appeal</b>	Permissible on substantial questions of law.	<b>No second appeal</b> lies for appealable orders.

#### Distinction: Judgment vs. Decree/Order

- **Judgment:** The statement given by the Judge on the grounds of a decree or order. It contains the **reasons** for the decision.
- **Decree/Order:** These are the **formal expressions** of the adjudication that follow the pronouncement of the judgment.

#### Sections 215 /379 BNSS

In the case of **Shaileendra Sharma and Others v. M/s Indus Residency Pvt. Ltd and Others (2026)**, the Madhya Pradesh High Court, presided over by **Justice Vivek Jain**, delivered a significant ruling concerning the procedural sanctity of court proceedings. The judgment clarifies the boundaries between judicial oversight and police authority in cases involving offences against public justice, specifically **impersonation of a surety**.

#### I. Background of the Case:

The dispute originated from a recovery suit where the petitioners (Decree Holders) had won a money decree against the respondents (Judgment Debtors).

1. **Interim Conditions:** While a First Appeal was pending in the High Court, the Judgment Debtors deposited **₹35.25 lakhs** with the Executing Court as per interim orders.
2. **The Surety:** The Executing Court permitted the disbursement of this amount to the Decree Holders, provided they furnished a solvent surety. A person named **Jugal Kishore** was presented as the surety.
3. **The Fraud:** It was later discovered that the agricultural land used for the surety had been pledged nine times previously. Subsequently, the real Jugal Kishore appeared in court, stating he had been **impersonated** and never signed the bond.
4. **Application for Prosecution:** The Judgment Debtors filed an application under **Section 379 of the Bharatiya Nagarik Suraksha Sanhita (BNSS)** [formerly Section 340 CrPC] seeking criminal prosecution for the fraud committed upon the court.
5. **Executing Court's Order:** On November 18, 2025, the Executing Court directed the police to enquire into the matter. Critically, it gave the police the **discretion to register an FIR** if they found evidence of fraud.

## **II. Observations of the High Court:**

The Decree Holders challenged the Executing Court's order, arguing that the court had abdicated its judicial function to the police. Justice Vivek Jain made the following observations:

- **Judicial Mind over Police Discretion:** The Court held that when an offence is committed "in or in relation to" a court proceeding, a police officer **cannot directly register a crime** under Section 215 BNSS.
- **Procedural Requirement:** Under Section 379 BNSS, the Court itself must conduct a preliminary enquiry and record a **prima-facie satisfaction** before a written complaint is made to a Magistrate.
- **Modification of Order:** The High Court modified the lower court's order. While the police can investigate the impersonation at the court's request, they **cannot register an FIR suo-motu**.
- **Mandate:** The investigation report must be submitted back to the Executing Court. The **Executing Court alone** must then apply its judicial mind to decide whether to authorize the registration of an FIR.

### III. Statutory Analysis: Sections 215 and 379 BNSS:

The transition from the Code of Criminal Procedure (CrPC) to the **Bharatiya Nagarik Suraksha Sanhita (BNSS)** retains the protective shield around judicial processes to prevent motivated litigation.

#### 1. Section 215 BNSS (Formerly Section 195 CrPC):

This section acts as a "bar" to taking cognizance. It ensures that for certain offences, only the "aggrieved" authority (the Court or Public Servant) can initiate prosecution.

- **Scope:** Includes offences relating to contempt of lawful authority and offences against public justice (like perjury or producing false evidence/sureties in court).
- **Mechanism:** Cognizance requires a **complaint in writing** from the Court or the concerned public servant.

#### 2. Section 379 BNSS (Formerly Section 340 CrPC):

This section outlines the specific "how-to" for the bar mentioned in Section 215.

- **Inquiry:** The Court must form an opinion that an inquiry is "expedient in the interests of justice."
- **Actionable Steps:**
  1. Conduct a preliminary inquiry.
  2. Record a finding of the offence.
  3. Make a written complaint.
  4. Send the complaint to a **First Class Magistrate**.
- **Hierarchy:** If a lower court refuses to act or fails to act, a **Superior Court** (to which the lower court is subordinate) can exercise these powers.

### IV. Key Legal Distinction:

Feature	General Criminal Offence	Offence in Relation to Court (Sec 215/379)
FIR Registration	Police can register FIR (Cognizable)	Police <b>cannot</b> register FIR directly

<b>Feature</b>	<b>General Criminal Offence</b>	<b>Offence in Relation to Court (Sec 215/379)</b>
<b>Investigation</b>	Police initiate on their own	Inquiry initiated by the Court
<b>Cognizance</b>	On Police Report or private complaint	Only on the written complaint of the Court
<b>Objective</b>	Punish the offender	Protect the sanctity of judicial proceedings

**Significance:** This ruling reinforces that the "Master of the Inquiry" in cases of courtroom fraud is the Judge, not the Police. This prevents the police from interfering in judicial administration without specific judicial authorization.

### Section 12(1)(c) of HMA , 1955

**Why in News?** A Division Bench comprising Justice Sujit Narayan Prasad and Justice Gautam Kumar Choudhary held that the non-disclosure of a prior live-in relationship before marriage constitutes fraud as to a "material fact" under Section 12(1)(c) of the Hindu Marriage Act, 1955 (HMA). Consequently, such a marriage is rendered voidable and can be annulled by a decree of nullity.

#### Background of the Case:

- The Marriage:** The parties were married on December 2, 2015, according to Hindu rites.
- The Discovery:** Upon entering her matrimonial home, the wife was introduced to a woman described as the husband's "girlfriend." She later discovered the husband had been in a long-term live-in relationship with this woman prior to their marriage.
- The Allegations:** The wife alleged that her consent was obtained by fraud—specifically the concealment of the husband's character. She further claimed she was subjected to physical and mental torture over a dowry demand of ₹15,00,000 and was ousted from her matrimonial home in 2016.

- **Cross-Appeals:** \* The Wife sought an enhancement of the permanent alimony awarded by the Family Court.
  - The Husband challenged the annulment, arguing that the allegations were false and that the marriage had suffered an "irretrievable breakdown."

#### **Key Court Observations:**

##### ***A. Distinct Definition of 'Fraud' in Matrimonial Law:***

The Court clarified that "fraud" under the Hindu Marriage Act differs fundamentally from "fraud" under the Indian Contract Act, 1872.

- **Sacrament vs. Contract:** Since Hindu marriage is a **sacrament** and not a mere civil contract, the definition of fraud under Section 17 of the Contract Act cannot be applied "lock, stock, and barrel."
- **Material Fact:** The Court observed that the status of a prior live-in relationship is a material fact. Suppression of this fact implies that consent was obtained by practicing fraud.

##### ***Quantification of Alimony:***

- The Court took note of the husband's financial standing (Manager at Hindustan Zinc Ltd, earning ~₹1,56,000/month) and the wife's educational background (LL.B. degree). To ensure a dignified life for the wife, the Court **enhanced the permanent alimony to ₹50,00,000** as a one-time settlement.
- **Understanding Section 12 of the Hindu Marriage Act (Voidable Marriages):**
- Unlike a **void marriage** (which is invalid from the start), a **voidable marriage** is valid until it is annulled by a court decree at the instance of one of the parties.

##### ***Statutory Grounds for Annulment:***

1. **Impotency:** Non-consummation of marriage due to the respondent's impotency.
2. **Unsoundness of Mind:** Incapacity to give valid consent due to mental disorder or recurrent attacks of insanity (referencing Section 5(ii)).
3. **Consent by Force or Fraud:** Consent obtained by the petitioner or their guardian through coercion or suppression of material facts (the ground used in the *Priyanka Sahi* case).

4. **Pre-marital Pregnancy:** The respondent was pregnant by someone other than the petitioner at the time of marriage.

**Legal Effect:** Until annulled, the parties retain the status of husband and wife. Children born from such marriages are protected as legitimate under **Section 16 of the HMA**.

#### **Live-In Relationships in India: The Legal Landscape:**

A live-in relationship is a domestic cohabitation between two unmarried individuals. While it lacks a specific central statute, it has gained legal recognition through judicial activism.

- **Constitutional Protection:** Recognized under **Article 21** (Right to Life and Personal Liberty).
- **Domestic Violence Act, 2005:** Section 2(f) protects women in "relationships in the nature of marriage," granting them rights to maintenance and residence.
- **Judicial Criteria (Indra Sarma Case, 2013):** The Supreme Court established that for a live-in relationship to have legal standing, it must involve:
  - Significant duration of cohabitation.
  - Shared household and pooling of resources.
  - Public socialization as a couple.
- **Rights of Children:** Children born out of such unions are legitimate and have full rights to ancestral and self-acquired property.

#### **Conclusion: The Impact of the Judgment:**

The *Priyanka Sahi* ruling reinforces the requirement of **transparency and "uberrima fides"** (utmost good faith) in matrimonial alliances. It sets a precedent that significant past domestic arrangements, like live-in relationships, are "material facts" that must be disclosed to ensure valid consent.