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REGULAR UPDATES!

[Issue No.:47(4) / 2022]

Regular¹ Legal Updates & Points

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[1]	Word/ Doctrine / Maxims of the Day: Mutatis Mutandis – This is a Latin phrase which is used when comparing two or more cases or situations and accordingly making necessary alterations while not affecting the main point at issue. The phrase mutatis mutandis indicates that whilst it may be necessary to make some changes to take account of different situations, the main point remains the same. The phrase mutatis mutandis is used within contracts to incorporate terms from one agreement into a different and separate agreement. For examples: (1) a lease renewal with similar terms to a previous agreement, save for changes to the tenants, may incorporate terms ‘mutatis mutandis’. (2) This complex pattern has been repeated, mutatis mutandis, all over the country.
[2]	Question (?) / Issue for Discussion of the Day: Discuss the suitability of criminal law, in the light of the Criminal Procedure (Identification) Bill, 2022, in this information age under socio-economic and cultural scenario in India.
[3]	Law / Bill of the Day: Article 111 of Constitution of India talks as to assent to the Bill by the President of India. Elaborately, Article 111 provides that when a Bill has been passed by the Houses of Parliament, it shall be presented to the President, and the President shall declare either that he assents to the Bill, or that he withholds assent therefrom. However, the President may, as soon as possible after the presentation to him of a Bill for assent, return the Bill if it is not a Money Bill to the Houses with a message requesting that they will reconsider the Bill or any specified provisions thereof and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message, and when a Bill is so returned, the Houses shall reconsider the Bill accordingly, and if the Bill is passed again by the Houses with or without amendment and presented to the

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	President for assent, the President shall not withhold assent therefrom. Similar power has been given to the Governor under Article 200 of the Indian Constitution.
[4]	<p>Memorable Case Laws:</p> <p>(1) Kihoto Hollohan vs Zachillu [1992 SCR (1) 686]: It is a leading case on Anti Defection Law. In this case 52nd Constitutional Amendment was challenged. The constitution bench of the Supreme Court analyzed in detail the various provisions of the 52nd amendment of the constitution which inserted a new schedule (tenth schedule) elaborating various provisions to protect the parties from defection. The Supreme Court upheld the constitutional validity of the 52nd Amendment to the Constitution as this amendment does not violate freedom of free speech or fundamental principle of the parliamentary democracy. However, the court held that Para 7 of the schedule is ultra vires to the Constitution as it tries to change the impact of Articles 136, 226 and 227 of the Constitution and thus excludes judicial review. The Court also clarified that the presiding officer has the power to make the decision and when that decision is pronounced and effected, it is subject to judicial review.</p> <p>(2) NALSA Vs. Union of India (2014): In this case it was held by the Hon'ble Supreme Court of India that "Transgendered People" were the 'third gender' and that they had equal rights as any other gender. The Court further affirmed that the fundamental rights granted under the Constitution of India will be equally applicable to them, and gave them the right to self-identification of their gender as male, female or third gender.</p>
[5]	<p>Memorable Points (Cr.P.C.): Memorable points² as to Criminal Procedure Code, 1973 (total 19 points as to Cr.P.C. already covered under previous issues of "Regular Updates") are as under —</p> <p>(1) True/ False: When a Magistrate holding an inquiry has reason to believe that the person against whom the inquiry is being held is of unsound mind and consequently incapable of making his defence, the Magistrate shall inquire into the fact of such unsoundness of mind, and shall cause such person to be examined by the civil surgeon of the district or such other medical officer as the State Government may direct, and</p>

². The readers please be informed that total **83 points** (the Indian Penal Code, 1860) , **84 points** (CPC) and **93** (Indian Evidence Act) **memorable points** have been covered under previous issues of "Daily Legal Updates & Points" now known as "**Regular Legal Updates and Points**".



	<p>thereupon shall examine such surgeon or other officer as a witness, and shall reduce the examination to writing—True (Refer Section 328 of the Cr.P.C., 1973)</p> <p>(2) If the civil surgeon finds the accused to be of unsound mind, he shall refer such person to a psychiatrist or clinical psychologist for care, treatment and prognosis of the condition and the psychiatrist or clinical psychologist, as the case may be, shall inform _____ whether the accused is suffering from unsoundness of mind or mental retardation—The Magistrate (Refer Section 328 of the Cr.P.C., 1973)</p> <p>(3) If the accused is aggrieved by the information given by the psychiatric or clinical psychologist under Section 328, as the case may be, to the Magistrate, he may prefer an appeal before the _____?—Medical Board (Refer Section 328 of the Cr.P.C., 1973)</p> <p>(4) For the purpose of Section 328, the Medical Board which shall consist of _____ in the nearest government hospital; and a _____ in psychiatry in the nearest medical college— Head of psychiatry unit; Faculty member. (Refer Section 328 of the Cr.P.C., 1973)</p> <p>(5) Which procedure shall be adopted for giving false evidence or for fabrication of evidence—Summary Procedure (Refer Section 344 of the Cr.P.C., 1973)</p>
<p>[6]</p>	<p>Memorable Points (Misc.): Memorable points under Indian Constitution and various miscellaneous important Acts are as under (total 380 points already covered under previous issues of "Daily Updates")—</p> <p>(1) Constitution of India, 1950: Article _____ of the Indian Constitution talks of annual budget/ annual financial statement of the State Government—Article 202</p> <p>(2) Code of Civil Procedure: Section _____ empowers the Court to correct any clerical or arithmetical mistakes in judgments, decrees or orders or errors arising therein from any accidental slip or omission at any time either of its own motion or on the application of any of the parties —Section 152</p> <p>(3) Indian Evidence Act, 1872: As per Section _____ of the Indian Evidence Act, 1872, confidential communications with legal advisers —Section 129</p> <p>(4) Indian Penal Code, 1860: True/ False: The abetment of an offence being an offence, the abetment of such an abetment is not an offence—False (Refer Section 108 of the IPC, 1860)</p> <p>(5) Transfer of Property Act, 1882: True / False: On an exchange of money, each party thereby warrants the genuineness of the money given by him—True (Refer Section 121 of the TPA, 1822)</p>



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- (6) **Indian Contract Act, 1872**: True/ False: Mere silence as to facts likely to affect the willingness of a person to enter into a contract is not fraud, unless the circumstances of the case are such that, regard being had to them, it is the duty of the person keeping silence to speak³, or unless his silence is, in itself, equivalent to speech—**True** (Refer Section 17 of the ICA, 1872)
- (7) **Partnership Act, 1932**: True/ False: A Court deciding any matter relating to a registered firm may direct that the Registrar shall make any amendment in the entry in the Register of Firms relating to such firm which is consequential upon its decision; and the Registrar shall amend the entry accordingly—**True** (Refer Section 65 of the Partnership Act, 1932)
- (8) **Sale of Goods Act, 1930**: True/ False: The term “mercantile agent” means a mercantile agent having in the customary course of business as such agent authority either to sell goods, or to consign goods for the purposes of sale, or to buy goods—**True** (Refer Section 2(9) of the SOGA, 1930)
- (9) **Specific Relief Act, 1963**: The person against whom any relief is claimed under the Specific Relief Act, 1963 may plead by way of defence any ground which is available to him under any law relating to contracts. It is so provided under Section ___ of the SRA?—**Section 9**
- (10) **Negotiable Instrument Act, 1881**: The term ‘Banker’ is defined under Section ___ of the NI Act—**Section 3**
- [7] **G. K. / Current Affairs**:
- (1) Article ___ of the Indian Constitution talks of annual budget/ annual financial statement of the Government of India—**Article 112**.
- (2) Currently wireless data and spectrum are being dealt with under which Act?—**Wireless Act, 1933**.
- (3) Which new Act is being proposed to replace Wireless Act, 1933?—**Wireless and Spectrum Act**
- (4) The Governor shall hold office during the pleasure of the President of India. It is so provided under Article ___ of the Indian Constitution—**Article 156**
- (5) Who may make such provision as he thinks fit for the discharge of the functions of the Governor of a State in any contingency not provided for?—**The President** (Refer Article 160 of the Indian Constitution)



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Thanking You!

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