

White-Collar Crime & Corporate Investigations Monthly Newsletter

PREVENTION OF MONEY LAUNDERING ACT

BANKS CANNOT FREEZE ACCOUNTS ON MERE SUSPICION WITHOUT A COMPLAINT, FIR, OR COURT ORDER

In a writ petition seeking de-freezing of a bank account unilaterally frozen by the respondent bank on the ground of alleged suspicious transactions, the **Allahabad High Court** held that a bank cannot freeze a customer's account merely on its own suspicion, in the absence of any complaint, FIR, or judicial order. Allowing the writ petition, the Court rejected the bank's reliance on S. 12AA(2) of the Prevention of Money Laundering Act, 2002 ("PMLA"), holding that the provision relates to enhanced due diligence and applies only where the

conditions provided under S. 12AA(1) are not fulfilled and does not confer any independent power upon banks to freeze accounts. The Court clarified that the power to freeze property or accounts is vested exclusively in the competent authority under S. 17 of the PMLA, subject to safeguards as stated therein. Terming the bank's action illegal, arbitrary, and mala fide, particularly when the petitioner was neither named in any FIR nor implicated in any criminal activity, the Court directed immediate de-freezing of the account. It imposed a cost of Rs. 50,000 on the bank for paralyzing the petitioner's business operations.

[S.A. Enterprises vs. Reserve Bank of India & Ors.](#)

PREVENTION OF CORRUPTION ACT

NO PRIOR APPROVAL UNDER S. 17A OF THE PC ACT IS REQUIRED IN TRAP CASES

The **Allahabad High Court** dismissed the applications filed under S. 528 of the Bharatiya Nagarik Suraksha Sanhita ("BNSS") by the applicants/ accused persons challenging the rejection of their discharge applications, the framing of charges by the Special Judge, CBI, and the validity of the prosecution sanction orders - in connection with a chargesheet filed for offences under S. 61(2) of the Bharatiya Nyaya Sanhita, 2023 ("BNS") (*criminal conspiracy*) and S. 7 of the Prevention of Corruption Act, 1988 ("PC Act") (*obtaining of bribe by public servant*) for demanding and accepting a bribe of Rs. 25,000.

Relying upon the judgments of the Supreme Court in **Parkash Singh Badal vs. State of Punjab**, (2007) 1 SCC 1, **Dinesh Kumar vs. Airport Authority of India**, (2012) 1 SCC 532, and **CBI vs. Ashok Kumar Aggarwal**, (2014) 14 SCC 295 the Court held that the validity of a sanction order has to be examined during the trial and not at pre-trial stage. While rejecting the applicants' contention that the prosecution sanction order is mechanical as it grants sanction in respect of an offence under S. 61(2) of the BNS which is not covered under S. 19 of the PC Act (*which makes previous sanction necessary for*

prosecuting public servants), the Court referred to the judgment of the full bench of the **Allahabad High Court** in **Neeru Yadav vs. C.B.I. (Bharat Sangh)**, 2006 SCC OnLine All 141 wherein it was held that no separate sanction is required to prosecute a public servant under S. 120-B, IPC/ 61(2), BNS when sanction against him has been granted under S. 19 of the PC Act. Further, the Court noted that since the offences under S. 7 of the PC Act and S. 61(2) of the BNS do not amount to 'acts in discharge of official duty', sanction is not required for such acts.

The Court also held that no previous approval/ sanction under S. 17A of the PC Act (*which necessitates previous approval to enquire/ inquire/ investigate public servants for offences related to recommendation or decisions taken by them in discharge of official functions*) was required to investigate the applicants since they were caught red-handed while accepting a bribe and were arrested on the spot during the trap proceedings. Further relying on the judgment of the Supreme Court in **CBI vs. Santosh Karnani**, 2023 SCC OnLine SC 427 the Court affirmed that the first proviso to S. 17A exempts the requirement of prior approval in cases involving the arrest of a person on the spot on charge of accepting or attempting to accept undue advantage.

[Achhe Lal & Anr. vs. Central Bureau of Investigation](#)

BHARATIYA NYAYA SANHITA

MAHARASHTRA LEGISLATURE INCLUDES PROVISIONS OF THE PROPOSED SHAKTI BILL IN THE BNS

Both Houses of the Maharashtra legislature have passed the Bharatiya Nyaya Sanhita (Maharashtra Amendment) Bill, 2026 ("Bill"), amending the Bharatiya Nyaya Sanhita, 2023 ("BNS") to include provisions from the previously proposed Shakti Criminal Laws (Maharashtra Amendment) Bill, 2020 ("Shakti Bill").

According to the Government of Maharashtra, the provisions of the BNS and the Shakti Bill were found identical, except for

two sections that were absent from the BNS. Therefore, the Bill seeks to add the two sections to the BNS. The first section provides for the criminalization of the disclosure of the identity of acid attack victims on par with rape victims under S. 72. In contrast, the second section expands the definition of sexual harassment under S. 75 to include harassment on digital platforms.

[Bharatiya Nyaya Sanhita \(Maharashtra Amendment\) Act, 2026](#)

BHARATIYA NAGARIK SURAKSHA SANHITA

REQUIREMENT OF SANCTION FOR PROSECUTION DOES NOT APPLY TO PROSECUTION INITIATED PRIOR TO ITS INTRODUCTION

While hearing an appeal against a Calcutta High Court's decision dismissing the petition of the appellant, a subordinate-rank officer of the Calcutta Police, for quashing of ongoing criminal proceedings against him, the **Supreme Court** held that extension of protection from prosecution through the requirement of prior sanction, under S. 197 of the Code of Criminal Procedure ("CrPC")/ S. 218 of the Bharatiya Nagarik Suraksha Sanhita ("BNSS"), by the West Bengal government to police officers of the appellant's rank would not annul proceedings that commenced before such extension.

The proceedings arose from a complaint filed in 2001, accusing the appellant and two other officers of a custodial death. At that time, subordinate police officers, such as constables and station-level officers, were not covered by S. 197. However, such protection was extended to them by notification in 2010. The Court noted that since cognizance of the offence had been validly taken in 2001 in the absence of any bar due to S. 197, the proceedings would not be affected by any subsequent introduction of such bar.

[Samarendra Nath Kundu & Anr. vs. Sadhana Das & Anr.](#)

NOTICE OF APPEARANCE UNDER S. 35(3), BNSS MUST BE GIVEN PHYSICALLY AND NOT BY ELECTRONIC MEANS

The **Karnataka High Court**, while hearing a challenge to a Magistrate's order allowing the arrest of the petitioner, held that if an accused person avoids service of a pre-arrest notice under S. 35 of the BNSS, the police cannot send the same

through electronic means, and would be justified in arresting the person concerned. Relying on observations made by the Supreme Court in **Satender Kumar Antil v. CBI**, 2025 SCC OnLine SC 1578 the Court noted that the legislature has made a "conscious omission" of electronic means from S. 35 of the BNSS. It is not open to the court to introduce a procedure not intended by the legislature into a statute.

In this case, the petitioner had avoided service of the pre-arrest notice for over 40 days and refused to accept it even when presented in person by the police. The Court found that this amounted to 'non-cooperative behavior' on his part, and therefore, the order passed by the Magistrate does not deserve to be quashed, as all the nuances of arrest were followed in this case.

[Yugadev R. vs. State of Karnataka & Ors.](#)

SUBSEQUENT PETITIONS FOR QUASHING OF PROCEEDINGS ON GROUNDS AVAILABLE AT THE TIME OF THE FIRST PETITION, BUT ABANDONED THEN, ARE NOT MAINTAINABLE

Relying on judgments of the Supreme Court in **Bhisham Lal Verma vs. State of UP**, 2023 SCC OnLine SC 1399, **Union of India vs. Cipla Ltd**, (2017) 5 SCC 262; **Rajiv Bhatia vs. State (NCT of Delhi)**, (1999) 8 SCC 525; and **K. Jayaram vs. BDA**, (2022) 12 SCC 815; the **Allahabad High Court** has reiterated that once certain grounds had been abandoned by the petitioner while seeking quashing of criminal proceedings under S. 482 of the CrPC / S. 528 of the BNSS, he could not be permitted to raise them in petition for the same relief subsequently.

In the present case, while considering a petition for quashing of the chargesheet, summoning order, and the entire proceedings in a case pending against the petitioner, the Court noted that it was the third petition in relation to the same case. The Court further noted that the petitioner had omitted to press grounds in the earlier petition despite such grounds being available at the relevant time. Therefore, the Court, while dismissing the petition, held that the present petition is a repeated attempt by the same applicant to set aside the proceedings against him, which is not only forum hunting but also not maintainable.

[Ramdular Singh vs. State of UP & Anr.](#)

NO PRIOR NOTICE IS REQUIRED TO BE SERVED FOR ATTACHMENT OF PROPERTY UNDER S. 106, BNSS

While hearing a batch of petitions pertaining to the restrictions placed on the operation of bank accounts of the petitioners, during investigation into cyber offences involving alleged suspicious financial transactions, the **Allahabad High Court** held that, unlike S. 107, BNSS, which requires the

issuance of a show-cause notice by the magistrate before ordering attachment of property to the owner thereof, S. 106 carries no such requirement. The Court clarified that S. 106 is intended to enable the police to take immediate action to attach property suspected of being connected to the commission of any offense. In contrast, S. 107 is intended as a precautionary measure. Therefore, the two provisions operate independently of each other.

However, the Court held that the banks of the accused persons would be required to inform them of the freezing of their accounts, to avoid undue hardship to them. The Court further held that the term “property”, under S. 106, applied only to such amount in a bank account as suspected of being connected to the offence in question. Therefore, it directed the banks of the petitioners to restore the functioning of the petitioners’ accounts to them and to hold the amounts suspected of being connected to the offences in question under lien.

[Ashish Rawat vs. Union of India & Ors.](#)

CODE OF CRIMINAL PROCEDURE

BONA FIDE PURCHASER OF PROPERTY BASED ON A WILL LATER FOUND TO BE FORGED CANNOT BE HELD CRIMINALLY LIABLE

The **Supreme Court**, while allowing an appeal against a Madras High Court’s order dismissing a petition for quashing of criminal proceedings regarding the forgery of a will and transfer of property based on the forged will, held that the appellant, who had purchased the property with a few others from the original complainant’s brother (vendor), had no role to play in the forgery of the will. Being a bona fide purchaser of the property for valuable consideration, he could not have induced the original complainant to deliver him some property or part with valuable security to commit the offence of cheating under S. 420 of the Indian Penal Code, 1860 (“IPC”) (*cheating and dishonestly inducing delivery of property*).

Further, relying upon its decision in **Mohammed Ibrahim vs. State of Bihar**, (2009) 8 SCC 751 the Court noted that there is no privity of contract between the appellant and the original complainant. This is because if the original complainant’s allegation of forgery of the will is substantiated, the appellant

would be the aggrieved party, since his title to the property would be affected.

[S Anand vs. State of Tamil Nadu](#)

ARREST IS IMPERMISSIBLE IN PRIVATE COMPLAINT CASES UNLESS A WARRANT IS ISSUED

The **Supreme Court** has clarified that, in a private complaint case, once a magistrate issues a summons, the accused is required only to appear before the court. The police cannot arrest the accused unless a warrant is issued under S. 87 of the CrPC, which empowers a court to issue a warrant in place of, or in addition to, a summons if it has reasons to believe that the accused has either absconded or failed to appear in compliance with a summons despite valid service. The Court also held that, even during an inquiry under S. 202 of the CrPC, the police have no power to arrest, and the High Courts cannot direct the accused to surrender after rejecting an anticipatory bail application. This judgment is an important safeguard for the rights of accused persons in private complaint matters.

[Om Prakash Chhawnika vs. State of Maharashtra & Anr.](#)

DRUGS AND COSMETICS ACT

DIRECTORS OR OFFICERS OF A COMPANY ARE NOT LIABLE TO BE PROSECUTED UNDER THE D&C ACT IN THE ABSENCE OF SPECIFIC ALLEGATIONS

The *Jammu and Kashmir and Ladakh High Court*, while hearing petitions challenging the complaint filed under the Drugs and Cosmetics Act, 1940 (“D&C Act”) and the orders issuing process, held that merely being a director, officer, or functionary of a company accused of committing an offence under the D&C Act does not expose one to liability, in the absence of specific allegations.

The petitions are filed under S. 528 of the BNSS by the petitioners, being the directors and other functionaries of a company, alleged to have committed the offences under S. 18(a)(i) r/w S. 27(d) of the D&C Act. The petitioners were

arraigned by virtue of S. 34 of the D&C Act, which provides for a presumption of liability against every person in charge of and responsible to a company that commits an offence under the D&C Act. However, the Court, referring to the decision of the Supreme Court in *M/s Cheminova India Limited vs. State of Punjab*, (2021) 8 SCC 818 observed that if a person has been designated as responsible by the Company through a resolution, only that person would be subject to the said presumption. Therefore, the functionaries against whom no specific allegations have been made in the complaints, could not be held liable on behalf of the company merely due to their roles.

[*Amit Kumar Bansal & Ors. vs. Sanjeev Kumar Gupta & connected matters*](#)

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White-Collar Crime and Corporate Investigations Practice

We have a skilled team specialized in criminal law, corporate/ transactional law, Intellectual Property and technology law, with considerable experience in criminal defence and regulatory enforcement.

Our knowledge of the enforcement landscape and understanding of the approach employed by regulators and investigating agencies enables us to anticipate the litigation trajectory and take steps to avoid/mitigate liability where possible.

The WCC team also works closely with the larger litigation practice to combat the substantial civil litigation risks that often accompany criminal and regulatory issues.

Competencies

Our subject matter competencies include the following:

- Fraud and Business Crime
- Money Laundering and FEMA
- Anti-Bribery, Anti-Corruption, and Investigations
- Securities Fraud
- Data Protection and Cyber Security
- Licensing Control
- Sanctions

Agencies/Authorities

We have represented clients before the following agencies:

- Directorate of Enforcement (ED)
- Central Bureau of Investigations (CBI)
- Serious Fraud Investigation Office (SFIO)
- Crime Branch/ Economic Offence Wing (EOW)
- Police Cyber Units
- Adjudicating Authorities and Appellate Tribunals under PMLA
- State Adjudicating Authorities (appointed under the Information Technology Act, 2000)
- Securities and Exchange Board of India (SEBI)
- Reserve Bank of India (RBI)
- Directorate of Revenue Intelligence (DRI)

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