

**LEADING CASES DECIDED IN 2017-2018**

By:

*Krishna Murari Yadav  
Assistant Professor,  
LC-I, Faculty of Law,  
University of Delhi, Delhi*

S. N.	DOJ	NAME OF JUDGMENT	REMARKS
	2017	2017	2017
1	2 Jan., 2017	<i>Krishna Kumar Singh &amp; Anr vs. State Of Bihar &amp; Ors<sup>1</sup></i>	Bench of Seven Judges. Placing “Ordinance” before legislature is mandatory. <i>Re-promulgation of “Ordinance” is fraud and a subversion of democratic legislative process. Articles 123 and 213.</i>
2	2 Jan., 2017	<i>Abhiram Singh vs. C.D.Commachen (Dead) by LRS and Ors.</i>	<i>Section 123(3) of the Representation of Peoples Act. Seeking votes on the basis of caste, religion or community amounted to corrupt practices under section 123 and election of candidate who indulged in it can be set aside.<sup>2</sup></i>
3	09 Feb.2017	<i>Association of Victims of Uphaar Tragedy vs. Sushil Ansal and Anotheer</i>	<i>Ansal was Sentenced.</i>
4	09March ,2017	<i>Hussain and Anr. vs. UOI</i>	<i>Supreme Court directed disposal of Bail pleas within one week. Speedy trial is a part of Article 21.</i>
5	31-03-2017.	<i>State of Tamilnadu vs. K Balu , (Prohibition of sale of liquor near roadside)</i>	There is no fundamental right to carry on business in liquor since as a matter of constitutional doctrine, Article 19(1) (g) does not extend to trade in liquor which is consistently regarded as <i>res extra commercium</i> ( a things beyond commerce) . In this case Supreme Court passed an order that no license should be granted to sale liquors on national or state highway.SC said that it must be ensure that liquors must not be visible or accessible directly within <b>500 metre</b> from the outer edge of highway or service lane

<sup>1</sup> UGC NET 2018 (Dec.)

<sup>2</sup> UGC NET 2018 (Dec.)

			of highway. To defeat this Order, several State converted State Highway to District Road.
6	06April, 2017.	<i>Deepa vs. Union of India (Reservation for OBC, SC and ST)</i>	. Hon'ble JJ, R.Banumat and A M.Khanwilkar Regarding this Judgement, There is a lot of rumour. Rumour is that OBC, SC and ST candidate can't qualify in general category. This rumour is not true.OBC SC ST can qualify in general category provided that he/ she has not taken special benefit of reserved category for example- age relaxation or more attempt etc.
7	19 April 2017	<i>State(Through) CBI Vs. Sri Kalyn Singh (Former CM of UP) &amp;Ors.</i>	FIR lodged on 06Dec.1992 for hatching conspiracy for demolition of Babri Mosque in Ayodhya. Supreme Court restored criminal conspiracy charges against senior BJP leaders L.K.Adwani, Uma Bharati, Murali Manohar Joshi and 13 Others.
8	28 April, 2017.	<i>Pawan kumar vs. State of H.P.</i> <sup>3</sup>	Appeal was dismissed.SC said, "She has an individual choice which has been legally recognised. It has to be socially respected. No one can compel a woman to love. <i>She has absolute right to reject.</i> " <i>Women"s right to love and reject.</i> <sup>4</sup>
9	05May 2017	<i>Mukesh and Anr.vs. State for NCT of Delhi</i>	Delhi Gang Rape Case. Death sentence was upheld.
10	09May, Seven Judges 2017	<i>Suo-Motu Contempt Petition (Civil) No. 1 Of 2017 In The Matter Of: In Re, Hon"ble Shri Justice C.S. Karnan</i>	The sentence of <i>six months</i> imposed by this Court on Sri Justice C.S. Karnan, shall be executed forthwith, by the Director General of Police, West Bengal, or through a team constituted by him. <i>Justice Karnan Case / Contempt of Court. This case was decided by seven judges.</i>
11	09June 2017	<i>Binoy Viswam vs. UOI</i>	SC upheld constitutional <i>validity of section 139AA of Income Tax Act</i> which made mandatory linkage of IT returns with AADHAAR subject to the outcome of main case related to AADHAAR.
12	26July, 2017	<i>Bimolangshu Roy(Dead) Through LRs vs. State of Assam vs. Another</i>	<i>Assam Parliamentary Secretaries (Appointment, Salaries, Allowances and Miscellaneous Provisions) Act, 2004.</i> Supreme Court declared this Act as unconstitutional. The Court held that <i>Article 194 of the Constitution of India does not expressly authorize the State Legislature to create the office of Parliamentary secretary.</i> <sup>5</sup>

<sup>3</sup> UGC NET 2018 (Dec.).

<sup>4</sup> UGC NET 2018 (Dec.).

<sup>5</sup> UGC NET 2018 (Dec.).

13	27 July, 2017	<i>Rajesh Sharma &amp; Ors vs. State of UP and Anr.</i>	Supreme Court laid down exhaustive guidelines regarding <i>section 498A</i> of IPC, 1860.
14	16 Aug. 2017	<i>Rakesh kumar Paul vs. State of Assam</i>	Right to get „ <i>default bail</i> “ under section 167(2) of Cr.P.C..
15	22Aug 2017	<i>Shayara Bano vs. UOI (Triple Talaq Case)</i>	<i>Practice of Triple Talaq is unconstitutional.</i> Constitutional Bench-Article 145(3) and (5)- 5 Judges, Decision 3:2 Majority Judges(1) Justice Joseph Kurian (2) J. U.U.Lalit,(3)Justice .R.F.Nariman Minority-(1) CJI Khehar (2) Justice Abdul Nazeer. It is violation of Article 14. <i>In consequences of this decision, Muslim Women (Protection of Rights on Divorce) Bill, 2017 was passed in Lok Sabha.</i>
16	24Aug, Aug.	<i>Justice K.S.Puttaswami (Retd.) and Anr. Vs. UOI and Ors. (Right to privacy is fundamental rights)</i>	<i>Right to privacy is fundamental rights. In a unanimous decision, a nine-judge Constitution Bench<sup>6</sup> overruled the Judgment in MP Sharma and Kharak Sing Case.</i>
17	11Oct. 2017	<i>Independent Thought Vs. Union Of India &amp; Anr. (Rape with wife)</i>	<i>Section 375 Exception 2</i> is arbitrary to Articles 14, 15 & 21 of the Constitution of India. Now in all cases, sexual intercourse with a women including wife, if she is below the age of 18 years, is rape.
18	12Oct, 2017	<i>Ms. Indira Jaising vs. Supreme Court of India through Secretary general &amp; Ors</i>	<i>Guidelines/norms for designation of „Senior Advocate“ by the Supreme Court and all High Courts of this country were laid down.</i>
18 A	13Oct, 2017	<i>K.L.N.V. Veeranjanyulu V. Union Of India &amp; Ors<sup>7</sup>.</i>	Dispute was regarding publication of Professor Kancha Ilaiah’s book. Supreme Court observed, “ <i>every author or writer has a fundamental right to speak out ideas freely and express thoughts adequately. Curtailment of an individual writer/author's right to freedom of speech and expression should never be lightly viewed.</i> ” S C declined to ban on publication of book.
19	2017	<i>101<sup>st</sup> Constitutional</i>	<b>Goods and Services Tax</b>

<sup>6</sup> UPPCS J 2018

<sup>7</sup> UGC NET 2018(Dec.).

		<i>Amendment</i>	
20	14/11/2017	<i>Kamini Jaiswal Vs. Union Of India &amp; Anr. (Master of Roster)</i>	<i>It was held that CJI alone had the power to assign the case to a bench even if there were allegations in the matter against him. (Prasad Institute of Medical Science, Lucknow Case).</i>
21	30Nov. 2017	<i>Dr.S.Rajaseekaran(II) vs.Union of India &amp; Ors.</i>	<i>Guidelines for safety of road accident (1) Road safety policy, (2)State Road Safety Council (3)Load Agency(4)Road Safety Fund(5)Road Safety Action Plan(6)District Road Safety Committee(7)Engineering Improvement(8)Traffic Calming Measures(9)Road Sefty Audit etc. 25 guidelines were laid down.</i>
22	01Dec. 2017	<i>Campaign for Judicial Accountability and Reforms(CJAR) vs. UOI and Others</i>	<i>Writ petition is dismissed with cost of Rs.25(Twenty five)lakhs to be deposited by petitioner before the Registry of this Court within six weeks whereafter said amount shall be transferred to the Supreme Court Bar Association Advocate" Welfarefund</i>
	2018	2018	2018
23	11/01/2018,	<i>Ashok Pandey Vs. Supreme Court Of India Through Its Registrar &amp;Ors. (Constitution of Benches and Allocation of Cases)</i>	<i>From an institutional perspective the Chief Justice is placed at the helm of the Supreme Court. In the allocation of cases and the constitution of benches the Chief Justice has an exclusive prerogative. As a repository of constitutional trust, the CHIEF JUSTICE IS AN INSTITUTION IN HIMSELF.</i>
24	08March 2018	<i>Shafin Jahan vs. Asokan K.M. (Hadiya Case) Akhila converted into Hadiya.</i>	<i>Right to choose is a fundamental rights. SC has restored the marriage of Hadiya with Shafin Jahan on08 March 2018 10 months after the Kerala high court annulled it.</i>  <i>S.C., said "Hadiya alias Akhila Asokan is at liberty to pursue her future endeavours according to law. We clarify that the investigations by the NIA in respect of any matter of criminality may continue in accordance with law".</i>
25	09 March 2018	<i>Common Cause (A Regd. Society) Vs. Union of India and Another.</i>	<i>(1) Right to die with dignity is a fundamental right under Article 21,</i> <i>(2) Passive euthanasia is legally valid and</i> <i>(3) Living will is legally valid.</i>  <i>Meaning of Living Will- Living will is a written document that allows a patient to give explicit (express) instructions in advance about the medical treatment to be administered when he or she is terminally ill or no longer able to express informed consent.</i>

26	20 March 2018	<i>Dr. Subhash Kashinath Mahajan vs. State of Maharashtra and Anr.</i>	This is a Judgment on <b>Scheduled Caste And Scheduled Tribe (Prevention of Atrocities) Act, 1989</b> in which anticipatory bail was denied and preliminary inquiry was laid down as a pre-condition for lodging of FIR.
27	19 April, 2018,	<i>Tehseen Poonawalla and Ors Vs Union Of India and Anrs.</i>  <i>(Justice Loya"s Death Case)</i>	All writ petitions were dismissed. <i>Misuse of Public Interest Litigation. PIL has become INDUSTRY OF VESTED INTERESTS.</i>
28	17 July, 2018	<i>Tehseen S. Poonawalla vs Union Of India (Mob lynching and cow)</i>	Supreme Court observed, "It is the duty of this Court under the constitutional framework to deal with the primary grievance that pertains to cow vigilantism and other incidents of lynching or, if we may say so, targeted violence and commission of offences affecting the human body and against private and public property by mobs under the garb of self-assumed and self-appointed protectors of law." Supreme Court issued exhaustive guidelines to control mob lynching. These guidelines were divided into three categories- <b>(1) Preventive Measures, (2) Remedial Measures and (3) Punitive Measures.</b>
	<i>All.H.C. 07April, 2017</i>	<i>Vivekanand Tiwari &amp;Anr. vs.UOI &amp; Anr</i>	Reservation for Teaching and Non-Teaching Staffs in Universities.
29	<i>S.C.21July 2017</i>	<i>Dr. Lal Chand Prasad vs. UOI</i>	Reservation for Teaching and Non-Teaching Staffs in Universities
30	<i>Sept. 06, 2018.</i>	<i>Navtej Singh Johar &amp; Ors. v. Union of India Thr. Secretary Ministry of Law and Justice and Another<sup>8</sup></i>	<b>Section 377 is partially struck down.</b> The provisions of Section 377 will continue to govern <i>non</i> -consensual sexual acts against adults, all acts of carnal intercourse against <i>minors</i> , and acts of <i>bestiality</i> .
31	<i>Sept. 26 2018</i>	<i>Swapnil Tripathi v. Supreme Court of India</i>  Cases falling under the following categories	<b>Live streaming of Court proceedings</b> is feasible due to the advent of technology and, in fact, has been adopted in other jurisdictions across the world. Live streaming of Court proceedings, in one sense, with the use of technology is to "virtually" expand the Court room area beyond the physical four walls of the Court rooms. Technology is evolving with increasing

<sup>8</sup> UP(J) 2018

		shall be excluded as a class from live-streaming: (i) Matrimonial matters, including transfer petitions; (ii) Cases involving sensitive issues as in the nature of sexual assault; and (iii) Matters where children and juveniles are involved, like POCSO cases. (iv) The presiding judge of each courtroom shall have the discretion to disallow live-streaming for specific cases where, in his/her opinion, publicity would prejudice the interests of justice. Etc.	swiftness whereas the law and the courts are evolving at a much more measured pace. This Court cannot be oblivious to the reality that technology has the potential to usher in tangible and intangible benefits which can consummate the aspirations of the stakeholders and litigants in particular. It can epitomize transparency, good governance and accountability, and more importantly, open the vista of the court rooms, transcending the four walls of the rooms to accommodate a large number of viewers to witness the live Court proceedings. Introducing and integrating such technology into the courtrooms would give the viewing public a virtual presence in the courtroom and also educate them about the working of the court.
32	Sep. 26, 2018	<b>Justice K.S. Puttaswamy (Retd.) And Anr. v. Union Of India and Others</b>	Constitutional Bench 4:1. Supreme Court upholds constitutional validity of AADHAAR but strikes down certain provisions including its linking with <b>bank accounts, mobile phones and school admissions</b> . CBSE, NEET, JEE, UGC etc. cannot make the requirement of AADHAR mandatory. <b>PAN, Income Tax Return<sup>9</sup> and for availing welfare scheme AADHAR is essential.</b>  SC upheld Passing of Aadhaar Act as Money Bill.
33	Sep. 27, 2018	<b>Joseph Shine v. Union of India</b>	<b>Section 497 was declared unconstitutional.</b> The decisions in Smt. Sowmithri Vishnu v. Union Of India & Anr. (27 May, 1985), V. Rewathi v. Union of India (1988) <sup>10</sup> and W.Kalyani v. State Tr.Insp.Of Police & Anr (1 December, 2011) <sup>11</sup> hereby stand overruled. Yusuf Abdul Aziz v. The State of Bombay (1954). <sup>12</sup>
34	Sep. 27, 2018	<b>M. Siddiq (D) Thr. Lrs. v. Mahant Suresh Das And Others Etc.</b>	The Supreme Court, by a 2:1 majority, refused to refer the Ayodhya-Ram Janmabhoomi land dispute case to a larger bench. While the majority judgment was authored by Justice Ashok

<sup>9</sup> UP (J) 2018 (GS)

<sup>10</sup> UP (J) 2018.

<sup>11</sup> UP (J) 2018.

<sup>12</sup> UP (J) 2018.

			<p>Bhushan, for himself and Chief Justice of India Dipak Misra, Justice S. Abdul Nazeer delivered the dissenting opinion.</p> <p>The majority judgment clarified that the observations made in the <i>Dr. M. Ismail Faruqui and Ors. v. Union of India and Ors.</i> (1994) judgment, that mosque was not an integral part of Islam, have to be understood in the context of land acquisition proceedings.</p>
35	28 Sept. 2018	<p><b>Indian Young Lawyers Assn. V. State of Kerala</b></p> <p>(Entry of female devotees between the age group of 10 to 50 years to the Lord Ayyappa Temple at Sabarimala (Kerala).)</p>	<p>4:1. Justice <b>Indu Malhotra</b>,<sup>13</sup> who dissented from the majority opinion, said that essentiality of a religious practice or custom has to be decided within the religion.</p> <p>The main opinion shared by Chief Justice of India (CJI) Dipak Misra and Justice A.M. Khanwilkar said, "One side we pray to goddesses; on the other, women of a certain age are considered 'impure'. This dualistic approach is nothing but patriarchy practised in religion. The ban 'exacts' more purity from women than men".</p> <p>It said that exclusion on grounds of biological and physiological features like menstruation was unconstitutional. It amounted to discrimination based on a biological factor exclusive to gender. It was violative of the right to equality and dignity of women.<sup>14</sup></p>
36	Dec. 14, 2018	<p><b>Manohar Lal Sharma V. Narendra Damodardas Modi &amp; Ors.</b></p>	<p>CJI Ranjan Gogoi, Justice Sanjay Kishan Kaul, Justice K.M. Joseph. <i>Group of writ petitions, filed as Public Interest Litigations, relate to procurement of 36 Rafale Fighter Jets for the Indian Airforce. Para no. 25 of judgment related to report of CAG and PAC became disputed.</i></p>

<sup>13</sup> UP (J) 2018.

<sup>14</sup> The Hindu News Paper

**CASES DECIDED BY SPECIAL COURT**

*Krishna Murari Yadav*  
*Assistant Professor,*  
*LC-I, Faculty of Law,*  
*University of Delhi, Delhi*  
*Contact no. -7985255882*  
[Krishnamurari576@gmail.com](mailto:Krishnamurari576@gmail.com)

<b>S.N.</b>	<b>DOJ</b>	<b>NAME OF JUDGMENT</b>	<b>REMARKS</b>
<b>1</b>	<b>26/08/2017</b>	<b>CBI vs. Gurmeet Ram Rahim Singh</b> <b>(Ram Rahim Case)</b>	<b>Rape</b>
<b>2</b>	<b>All.H.C. 07April, 2017</b>	<b>Vivekanand Tiwari &amp;Anr. vs. UOI &amp; Anr</b>	<b>Reservation for Teaching and Non-Teaching Staffs in Universities.</b>
<b>3</b>	<b>23Dec.2017</b>	<b>State(Through C.B.I.) vs. Shri Lalu Prasad and Anr.</b> <b>(Lalu Yadav Case)</b>	<b>Fodder Scam</b>
<b>4</b>	<b>05April, 2017</b>	<b>Salman Case</b>	<b>Blackbuck Poaching Case, Five Years Jail. He was sent to Jodhpur Jail.</b>
<b>5</b>	<b>25/04/2018</b>	<b>State of Rajasthan vs. Asharam and Anr.(Aasharam Case)</b>	<b>Aasharam was convicted for committing rape of minor.</b>