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The Fortnightly e-Journal

DELHI POLICE ACADEMY

Criminal Appeal No. 4647 of 2025 (@ SLP (Crl.)
No. 6238 of 2024 with SLP (Crl.) Nos. 8223-8224 of 2025)
Date of Judgement : 28/10/2025

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"Threatening a witness to give false evidence (Section 195A IPC) is a cognizable offence, and police can register an FIR and investigate; no court complaint required."

–THE SUPREME COURT

STATE OF KERALA.....APPELLANT
VERSUS
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FACTS OF THE CASE:

These appeals before the Supreme Court pertain to the divergent views taken by the Kerala and Karnataka High Courts on the procedure applicable to the offence under Section 195A IPC (Now 232 BNS), which penalises threatening a person to give false evidence.

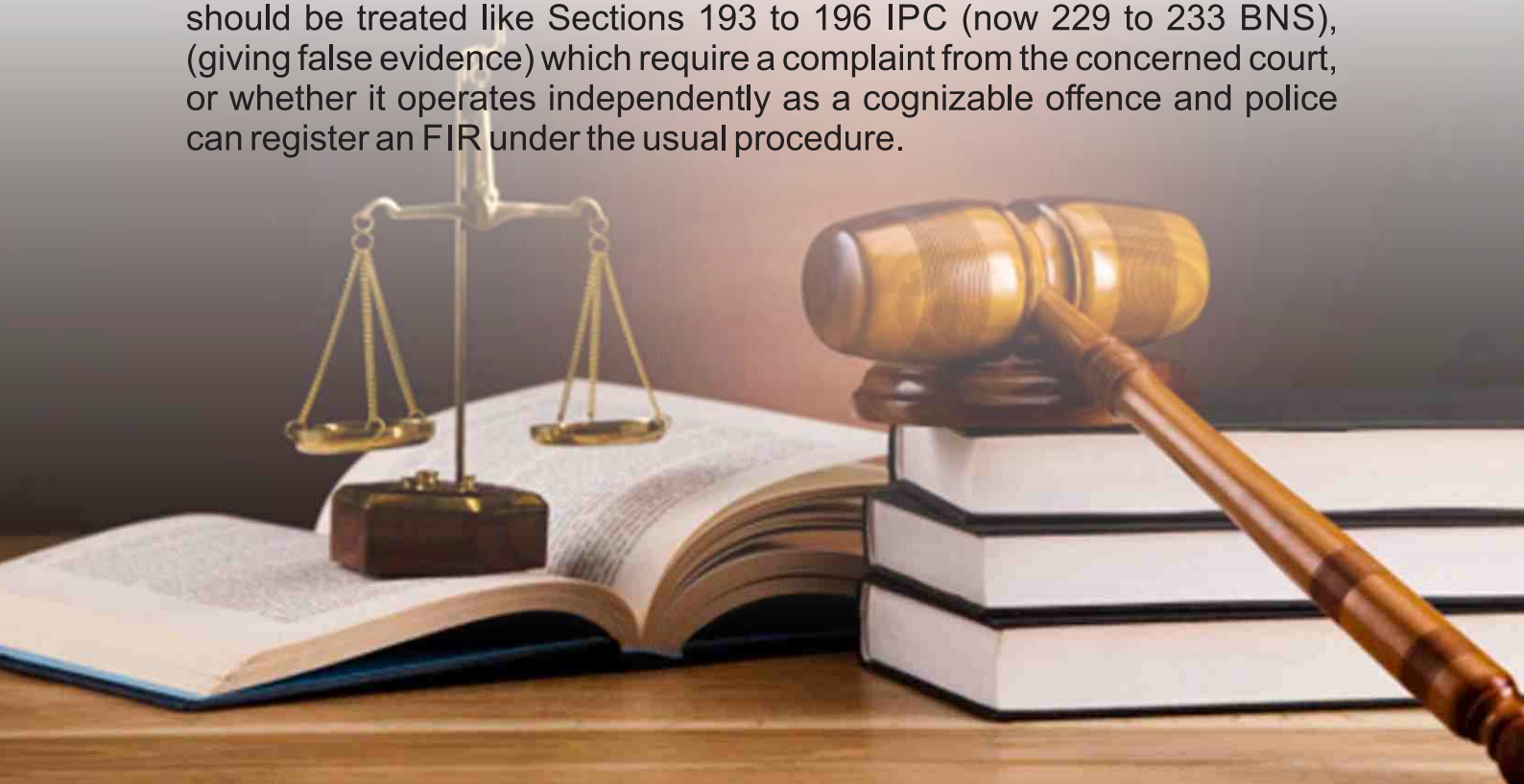
In the case pertaining to Kerala, FIR No. 1062/2022 was registered at Koratty Police Station for an offence under Section 195A IPC. The allegation was that an approver in a murder case had been threatened with dire consequences if he fail to give false evidence. The accused was granted bail by the Kerala High Court on the ground that the police could not have registered the FIR without following the procedure prescribed under Section 195(1)(b)(i) CrPC (Now 196 BNSS), which requires a complaint from the concerned Court for offences relating to giving or fabricating false evidence.

In the second case, pertaining to Karnataka, relating to the murder of one Yogesh Goudar and subsequently investigated by the CBI, the Magistrate took cognizance under Section 195A IPC on the basis of a complaint submitted by the CBI. The Karnataka High Court set aside the cognizance order, holding that non-compliance with Section 195(1)(b)(i) CrPC vitiated the proceedings.

In both of the cases, High Courts proceeded on the assumption that offences under Section 195A IPC are controlled by Section 195(1)(b)(i) CrPC. The orders of respective high courts were challenged in the supreme court through the instant appeals.

ISSUES ADVANCED:

Whether Section 195A IPC (threatening a person to give false evidence) should be treated like Sections 193 to 196 IPC (now 229 to 233 BNS), (giving false evidence) which require a complaint from the concerned court, or whether it operates independently as a cognizable offence and police can register an FIR under the usual procedure.



JUDGEMENT:

The Hon'ble Court begins by analysis of Section 195A IPC.

This is the core provision involved in the case. The Court noted that Section 195A IPC criminalises threatening any person to give false evidence. It also contains enhanced punishment if an innocent person is convicted because of such coerced false evidence. Section 195A IPC reads as follows: -

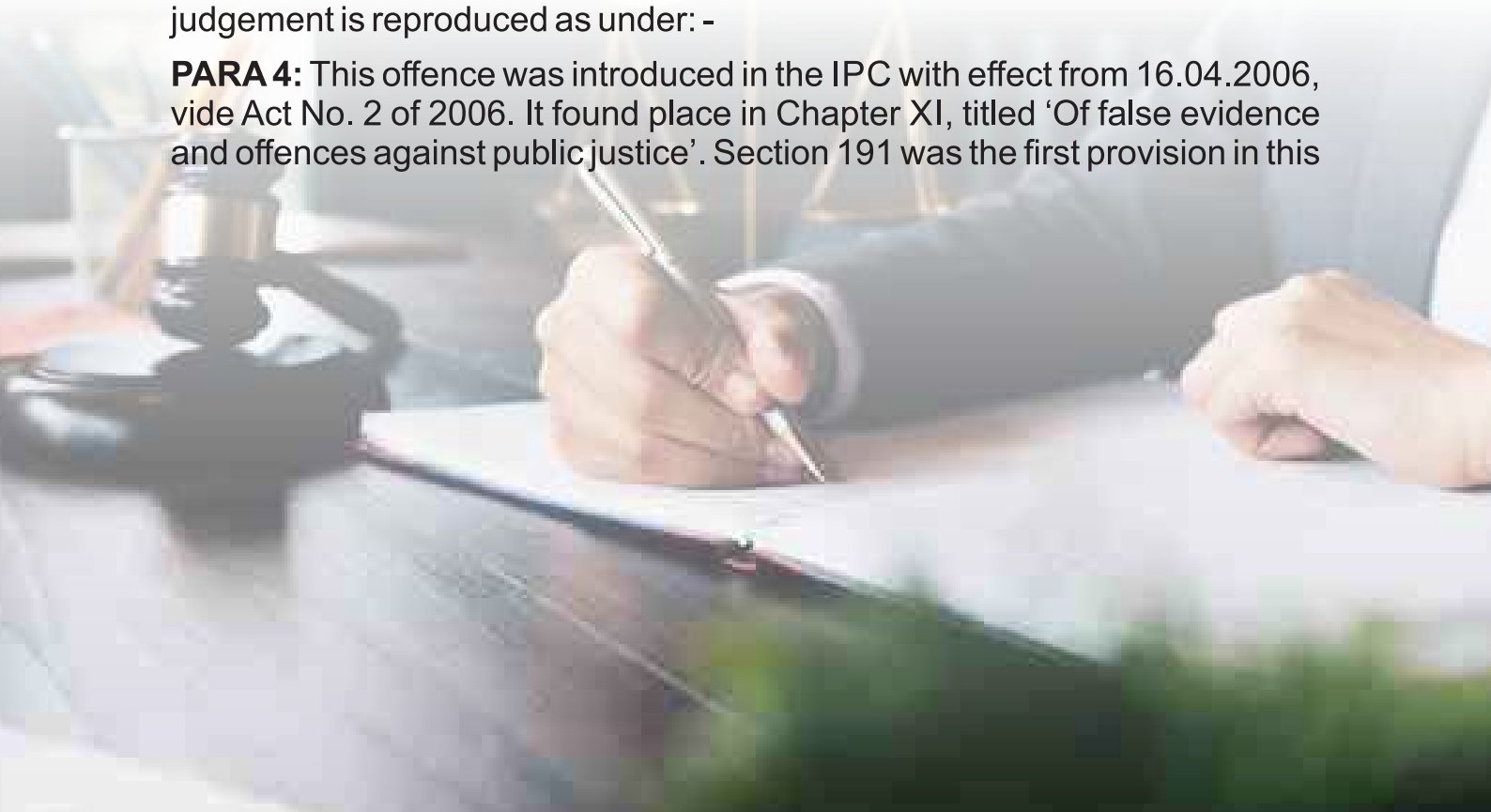
Section 195A – Threatening any person to give false evidence. -

'Whoever threatens another with any injury to his person, reputation or property or to the person or reputation of any one in whom that person is interested, with intent to cause that person to give false evidence shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both;

and if innocent person is convicted and sentenced in consequence of such false evidence, with death or imprisonment for more than seven years, the person who threatens shall be punished with the same punishment and sentence in the same manner and to the same extent such innocent person is punished and sentenced.'

Thereafter, the Hon'ble Court provided a detailed background of the provisions in the Indian Penal Code dealing with false evidence, in order to show how the law traditionally treated such offences before Section 195A IPC was introduced. The Court explains that Section 191 IPC (Now 227 BNS) defines "giving false evidence," Section 192 IPC (Now 228 BNS) defines "fabricating false evidence," and Section 193 IPC (Now 229 BNS) prescribes the punishment for these acts, with higher punishments when the false evidence is used in a judicial proceeding. The relevant para of the judgement is reproduced as under: -

PARA 4: This offence was introduced in the IPC with effect from 16.04.2006, vide Act No. 2 of 2006. It found place in Chapter XI, titled 'Of false evidence and offences against public justice'. Section 191 was the first provision in this



chapter and was titled 'Giving false evidence'. It stated that, whoever, being legally bound by an oath or by an express provision of law to state the truth, or being bound by law to make a declaration upon any subject, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, is said to give false evidence. Section 192 IPC defined 'Fabricating false evidence' and Section 193 IPC provided the punishment therefor. It reads thus:

'193. Punishment for false evidence. -

Whoever intentionally gives false evidence in any stage of a judicial proceeding, or fabricates false evidence for the purpose of being used in any stage of a judicial proceeding, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

and whoever intentionally gives or fabricates false evidence in any other case, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.'

The court also discussed Section 194 (Now 230 BNS), which deals with giving or fabricating false evidence with the intention of causing the conviction of a person for a capital offence, and Section 195 (Now 231 BNS), which concerns false evidence intended to procure conviction for offences punishable with seven years or more.

The Hon'ble Court noted that all of the aforementioned offences are non-cognizable, and non-bailable.

The Court further noted that Sections 196–200 IPC, which address other related acts, such as using false evidence, issuing false certificates, or making false declarations receivable as evidence are also non-cognizable.

Then Hon'ble Court delve upon section 195 CrPC which is relevant to this matter as it prohibits courts from taking cognizance of certain offenses, such as those related to contempt of a public servant's authority or offenses against public justice, unless a written complaint is filed by the public servant or the court concerned. The concerned paras of the judgement are reproduced as under:



PARA 9: Parallelly, section 195 CrPC was titled "Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence'. For the purposes of these cases, Section 195(1)(b)(i) CrPC is of relevance. It reads thus: -

'Section 195 CrPC: Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence. –

(1) No Court shall take cognizance -

(a) …

(b) (i) of any offence punishable under any of the following sections of the Indian Penal Code (45 of 1860), namely, sections 193 to 196 (both inclusive), 199, 200, 205 to 211 (both inclusive) and 228, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court,

or.....

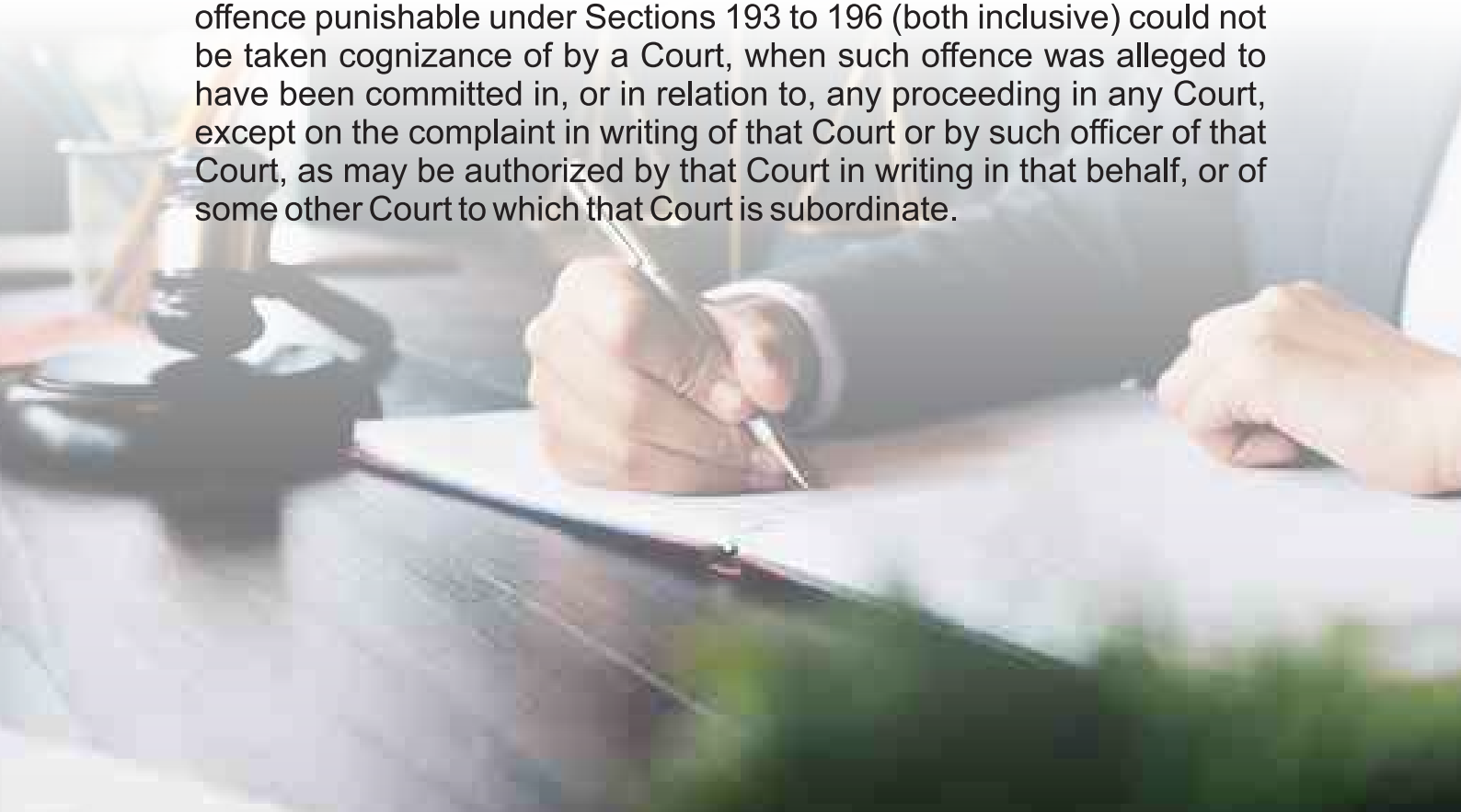
(ii) …

(iii) …

except on the complaint in writing of that Court or by such officer of the Court as that Court may authorise in writing in this behalf, or of some other Court to which that Court is subordinate.

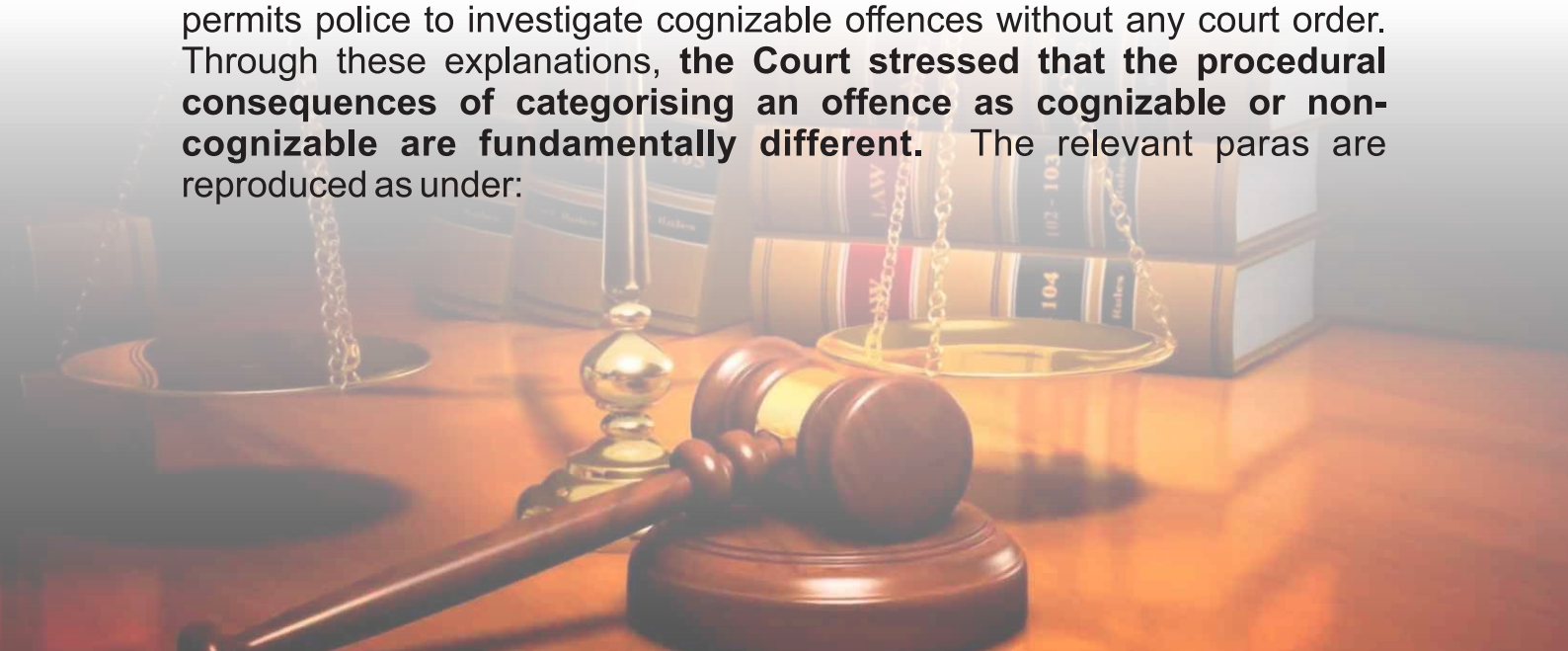
(2) ……..'

PARA 10: Therefore, as per the scheme of Section 195(1)(b)(i) CrPC, an offence punishable under Sections 193 to 196 (both inclusive) could not be taken cognizance of by a Court, when such offence was alleged to have been committed in, or in relation to, any proceeding in any Court, except on the complaint in writing of that Court or by such officer of that Court, as may be authorized by that Court in writing in that behalf, or of some other Court to which that Court is subordinate.



The Court then elaborated on **Section 340 CrPC,** which lays down the steps a Court must follow before making such a complaint. These steps include conducting a preliminary inquiry, forming an opinion that prosecution is necessary in the interests of justice, recording a finding to that effect, preparing a complaint in writing, and sending it to the jurisdictional Magistrate. The Court also explains that during this process, the Court may take security for the appearance of the accused or send the accused into custody if the alleged offence is non-bailable. The Court clarified that for traditional false-evidence offences under Sections 193–196 IPC, a special and restrictive procedure applies—one that excludes police initiation and places the responsibility solely on the Court system—thereby illustrating the distinction between these offences and the subsequently introduced Section 195A IPC.

The Hon'ble Court discussed the difference between cognizable and non-cognizable offences and how information regarding each category must be handled. The Court begins by explaining the definition of a "complaint" under Section 2(d) CrPC, which refers to an allegation made to a Magistrate with the aim of initiating criminal proceedings, and specifically excludes a police report. This is significant because for non-cognizable offences, and especially for offences falling under Section 195(1)(b)(i) CrPC, only a complaint to a Magistrate—not an FIR—can start the process. The Court then explained the meaning of "cognizable offence" under Section 2(c) CrPC, where police have the authority to arrest without a warrant and are obligated to register an FIR and investigate under Section 154 CrPC. In contrast, a "non-cognizable offence" under Section 2(l) CrPC cannot be investigated by the police unless a Magistrate grants permission under Section 155(2) CrPC. The Court elaborated on this distinction by summarising Sections 154, 155, and 156 CrPC, which regulate how information about such offences must be recorded and how investigations must proceed. Section 154 requires police to register an FIR for cognizable offences; Section 155 requires police only to make an entry and refer the informant to a Magistrate for non-cognizable offences; and Section 156 permits police to investigate cognizable offences without any court order. Through these explanations, **the Court stressed that the procedural consequences of categorising an offence as cognizable or non-cognizable are fundamentally different.** The relevant paras are reproduced as under:



PARA 16: The above provisions make it clear that the procedure to be followed apropos a cognizable offence is vastly different from the procedure relating to a non-cognizable offence - in the context of how information as to commission of such offence is to be dealt with and how it is to be investigated. When information as to commission of a non-cognizable offence is given to a jurisdictional police officer, he must record the same in the manner prescribed and refer the informant to a Magistrate. Section 155(2) CrPC makes it clear that a non-cognizable case cannot even be investigated without the order of a Magistrate having power to try such case or commit it for trial. It is only after receipt of such order that a police officer can exercise the same powers in respect of investigation, except the power to arrest without warrant, as an officer in charge of a police station may exercise in relation to a cognizable case.

PARA 17: This being the scheme obtaining at the time that Section 195A IPC came to be inserted in the statute book, the issue is as to how the offence thereunder is to be dealt with. The conundrum arises due to the fact that Section 195(1)(b)(i) CrPC remained unchanged even after insertion of Section 195A IPC. As noted earlier, Section 195(1)(b)(i) CrPC stated that offences punishable under Sections 193 IPC to 196 IPC (both inclusive) could not be taken cognizance of until a complaint in writing was made by the Court concerned or by an officer authorized by that Court or by a superior Court. Section 195A IPC, introduced in 2006, obviously fell between Sections 193 IPC to 196 IPC but the issue is whether the same procedure would apply to the offence thereunder.

PARA 18: Notably, in **Salib alias Shalu alias Salim vs. State of Uttar Pradesh and others,** this Court found, on facts, that the ingredients to constitute an offence under Section 195A IPC were not made out and, therefore, while noting that the said offence was a cognizable one whereby a police officer would have the power to investigate it, the question as to whether Section 195 CrPC would apply to that offence was left open.



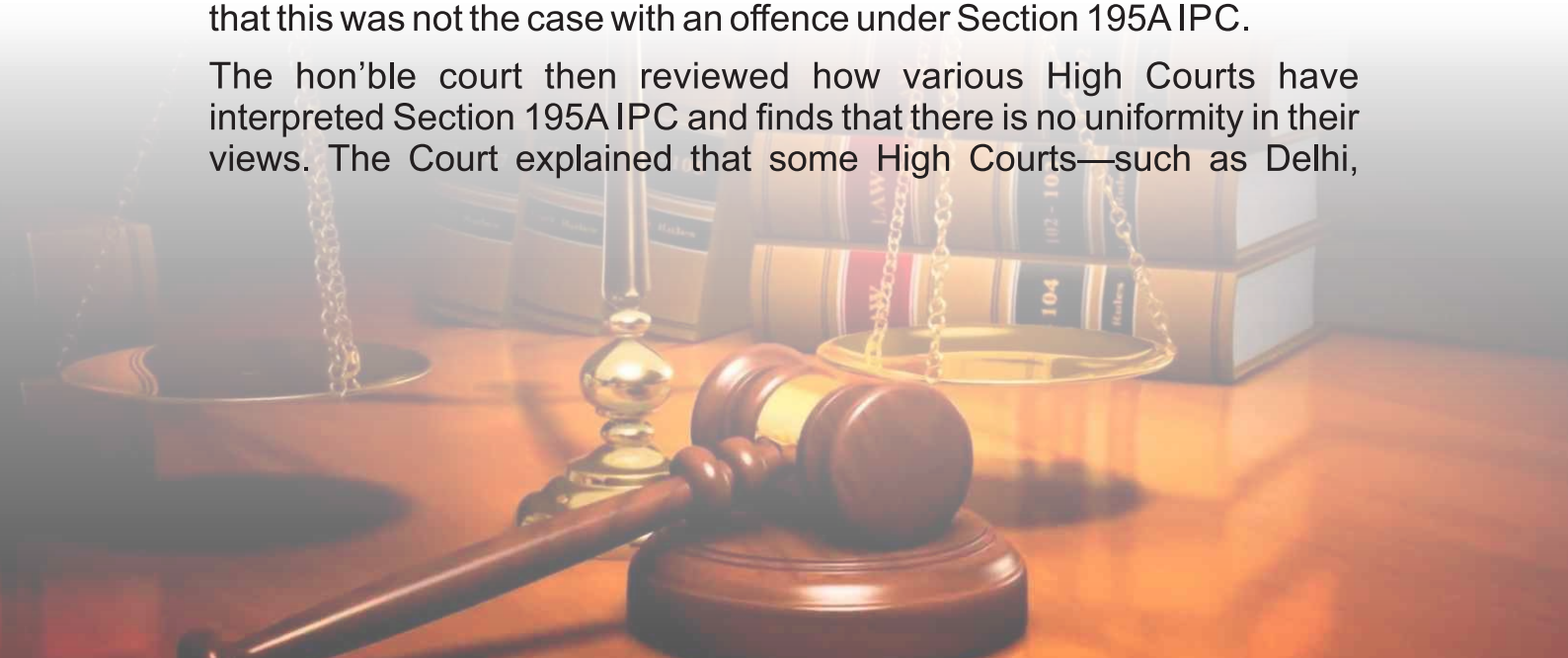
PARA 19: Pertinent to note, **when Section 195A IPC was inserted in the statute book in the year 2006, an amendment was also made in the First Schedule to the CrPC, inserting Section 195A IPC therein, specifically categorizing it as a 'cognizable offence', unlike the offences under Sections 193 IPC, 194 IPC, 195 IPC and 196 IPC, which were shown as non-cognizable offences. Significantly, an amendment was also made in Section 195(1) of the CrPC by the very same Act No. 2 of 2006, with effect from 16.04.2006, whereby the phrase 'or by such officer of the Court as that Court may authorise in writing in this behalf', came to be inserted in addition to the existing 'except on the complaint in writing of that Court, or of some other Court to which that Court is subordinate'. Unfortunately, while making this amendment in Section 195(1) CrPC, the lawmakers did not deem it necessary to clarify whether the offence under Section 195A IPC was to be treated as an exception to the procedure prescribed for the other offences, referred to in Section 195(1)(b)(i) CrPC, by excluding it specifically from the ambit thereof. However, in the year 2009, Section 195A CrPC was introduced in the statute with effect from 31.12.2009, vide Act No. 5 of 2009.** This provision reads as under: -

'195A Cr.P.C. Procedure for witnesses in case of threatening, etc.-

A witness or any other person may file a complaint in relation to an offence under section 195A of the Indian Penal Code (45 of 1860).'

PARA 20: This provision made it clear that a witness or any other person could file a complaint about commission of an offence under Section 195A IPC. This procedure was demonstrably dichotomous with the procedure under Section 195(1)(b)(i) CrPC, as the offences enumerated thereunder required the complaint to be made only by the Court concerned or by an officer authorized by that Court or by a superior Court. In that scenario, there was no possibility of any other person making a complaint independently. Section 195A CrPC made it manifest that this was not the case with an offence under Section 195A IPC.

The hon'ble court then reviewed how various High Courts have interpreted Section 195A IPC and finds that there is no uniformity in their views. The Court explained that some High Courts—such as Delhi,



Madhya Pradesh, and Calcutta—have held that Section 195A IPC is a cognizable offence, and therefore the police can register an FIR and investigate it just like any other cognizable offence. These courts have also taken the view that Section 195A CrPC merely provides an additional remedy to file a complaint before a Magistrate, not an exclusive procedure. On the other hand, the Court noted that the Gauhati High Court and another bench of the Madhya Pradesh High Court have taken the opposite view and held that prosecutions under Section 195A IPC must be initiated only through a complaint before a Magistrate, and that an FIR cannot be registered for this offence. After summarising these conflicting legal approaches, the Court then refers to the two High Court decisions under appeal—the Kerala High Court and the Karnataka High Court—both of which assumed that the special procedure under Section 195(1)(b)(i) CrPC applies to Section 195A IPC, and accordingly held that the police could not register an FIR without a Court's complaint.

The learned senior counsel of the accused suggested that Section 195A IPC should be split into two categories: (i) cases where the threat relates to a court proceeding, in which the court would need to file a complaint under Section 195(1)(b)(i) CrPC, and (ii) cases unrelated to a court proceeding, where a private complaint under Section 195A CrPC could be filed. The Hon'ble Court rejects this approach, holding that it would amount to rewriting the law, and that nothing in the statute supports dividing Section 195A IPC into two different procedural tracks.

Thereafter, the Hon'ble Court stated that the shortcomings or lack of clarity in the drafting of Section 195A IPC cannot be treated as a legislative gap that the Court is permitted to fill. The relevant para of the Judgement is as under:

PARA 27: We may note, at this stage, that the shortfalls and lack of lucidity in the statute do not constitute casus omissus, i.e., 'a case of omission'. It is well settled that it is not permissible for the Court to apply



the doctrine of casus omissus where the language of a statute is clear and unambiguous as the words used by the statue speak for themselves and it is not the function of the Court to add words or expressions merely to suit what the Court thinks is the intent of the legislature [See S.R. Bommai vs. Union of India]. As pointed out by a Constitution Bench in Nathi Devi vs. Radha Devi Gupta, while interpreting a statute, effort should be made to give effect to each and every word used by the legislature and a construction which attributes redundancy to the legislature should not be accepted except for compelling reasons, such as obvious drafting errors.

However, in a situation where it is not an instance of casus omissus by the draftsman of the legislation and there are ample means to gather the clear intention of the lawmakers, the statutory provisions which are seemingly lacking in clarity, but are actually not so, can be synchronized so as to give effect to the legislation as intended, without the Court venturing into the realm of legislative drafting. Such an exercise would only require harmonious construction of the provisions so as to give full effect to the legislation.

PARA 28: From the statutory scheme, as set out supra, it is clear that Section 195A IPC was conceptualized as an offence distinct and different from those under Sections 193 IPC, 194 IPC, 195 IPC and 196 IPC. Those offences require a complaint to be made only by those named in Section 195(1)(b)(i) CrPC and they were all non-cognizable offences. However, an offence under Section 195A IPC was a cognizable offence and pertained to inducing a person to give false evidence by intimidating him/her with threat of injury either to his/her person or reputation or property or to the person or reputation of anyone in whom that person is interested. The threat to a witness may be given long before he comes to the Court though the giving of false evidence, under such threat, is in connection with a proceeding before that Court. That is, perhaps, the reason why this offence was made cognizable so that the threatened witness or other person may take immediate steps by either giving oral information of the commission of this cognizable offence to the concerned police officer, under Section 154



CrPC, or by making a complaint to a jurisdictional Magistrate, under Section 195A CrPC, so as to set the process of criminal law in motion. Requiring that person to go before the Court concerned, i.e., the Court in which the proceeding is pending in relation to which false evidence is to be given, and inform it about the threat received, thereby necessitating a complaint under Section 195(1)(b)(i) along with an inquiry under Section 340 CrPC, would only cripple and hamper the process.

PARA 29: Section 195A CrPC, therefore, aimed at bringing clarity to the issue. The threatened witness or other person could approach the police or file a complaint in relation to an offence under Section 195A IPC so that the process relating to cognizable offences could commence immediately. The use of the word 'may' in Section 195A CrPC indicates that it is not compulsory for a threatened witness or other person to only approach the Magistrate concerned to complain of the offence under Section 195A IPC. Given the scheme and structure of both the statutes, i.e., the IPC and the CrPC, in the context of the offence under Section 195A IPC, we are not persuaded by the argument that the word 'may' in Section 195A CrPC should be read as 'shall'. **The undeniable fact remains that the offence under Section 195A IPC is a cognizable offence and once that is so, the power of the police to take action in relation thereto under Sections 154 CrPC and 156 CrPC cannot be doubted. As the said offence is classified as a cognizable offence, the process of criminal law can as well be set in motion by giving information of the commission of such offence to the concerned police officer under Section 154 CrPC. It is only by way of an additional remedy that Section 195A CrPC permits the threatened witness or any other person acting on his behalf to file a complaint before the jurisdictional Magistrate to set the process of criminal law in motion.** This aspect has already been touched upon by this Court, though in the passing, in **Salib (supra)**. This, in our considered opinion, is the proper and correct method of construing and giving effect to the relevant provisions in relation to an offence under Section 195A IPC.

With the above observations, the hon'ble apex court held the interpretation placed upon such provisions by the learned Judges of the Kerala and



Karnataka High Courts to be erroneous and unsustainable and set aside the orders of respective high courts in the present appeals.

Corresponding sections of Bharatiya Nyaya Sanhita (BNS) & Bharatiya Nagarik Suraksha Sanhita (BNSS) to the sections of IPC & CrPC mentioned in this Judgement.

Indian Penal Code (IPC)	Bharatiya Nyaya Sanhita (BNS)	Code of Criminal Procedure (CrPC)	Bharatiya Nagarik Suraksha Sanhita (BNSS)
191 IPC	227 BNS	154 CrPC	173 BNSS
192 IPC	228 BNS	155 CrPC	174 BNSS
193 IPC	229 BNS	156 CrPC	175 BNSS
194 IPC	230 BNS	195 CrPC	215 BNSS
195 IPC	231 BNS	195(1)(b)(i) CrPC	215 (1)(b)(i) BNSS
195A IPC	232 BNS	195A CrPC	216 BNSS
196 IPC	233 BNS	227 CrPC	250 BNSS
		340 CrPC	379 BNSS
		482 CrPC	528 BNSS

Court Judgement

