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# JUDGEMENTOPEDIA

*(Learning Judgements For A Living)*

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Nov, 2025  
Vol 71



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IN RE: Summoning Advocates who give legal opinion or represent parties during investigation of cases and related issues.  
[2025 INSC 1275]

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Noble M. Paikada Vs. Union of India  
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K. Nagendra Vs. The New India Insurance Co. Ltd. & Ors  
[2025 INSC 1270]



# Whether an Investigating Agency/Prosecuting Agency/Police may directly summon a lawyer advising a party in a case for questioning?

**CONTEXT:** The matter arose from a reference made by a Bench of two learned Judges regarding a Special Leave Petition filed against a notice issued to an Advocate under Section 179 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023. The Advocate had filed a bail application for an accused. The Investigating Officer (I.O.) summoned the Advocate to 'know true details of the facts and circumstances' of the case. The High Court had refused to interfere, opining that the summons was served under Section 179 BNSS in the capacity of a witness. The fundamental issue was whether such a summons violated the attorney-client privilege conferred under Section 132 of the Bhartiya Sakshya Adhiniyam (BSA), 2023.

① The Supreme Court answered the question with an emphatic 'NO'. The summons issued to the Advocate was declared illegal and against the provisions of Section 132 of the BSA.

② The I.O. cannot directly summon a lawyer appearing in a case to elicit details of that case. If a summons is issued under any of the limited exceptions to Section 132, the summons must explicitly specify the facts relied upon.

③ Furthermore, any such summons must be issued only with the prior approval and written satisfaction of a Superior Officer not below the rank of a Superintendent of Police.

**IN RE: SUMMONING  
ADVOCATES WHO GIVE  
LEGAL OPINION OR  
REPRESENT PARTIES  
DURING INVESTIGATION  
OF CASES AND  
RELATED ISSUES  
[2025 INSC 1275]**

**SECTION 132 OF THE  
BHARATIYA SAKSHYA  
ADHINIYAM, 2023**

**SECTIONS 179 AND 528  
OF THE BHARATIYA  
NAGARIK SURAKSHA  
SANHITA, 2023**

**Whether Item 6 of the substituted Appendix-IX (Notification dated March 28, 2020, as amended on August 30, 2023), exempting extraction of ordinary earth for linear projects such as roads and pipelines from prior Environmental Clearance, is illegal, arbitrary, and violative of the Environment (Protection) Act, 1986, and the Constitution of India?**

**CONTEXT:** These appeals challenged the judgment of the National Green Tribunal (NGT) which had directed the Ministry of Environment, Forest and Climate Change (MoEF&CC) to revisit its notification dated March 28, 2020. The Appellant specifically challenged Item 6 of the newly substituted Appendix-IX, which granted a blanket exemption from obtaining prior EC for the borrowing of ordinary earth for linear projects. This exemption was contended to be contrary to previous judicial mandates, such as the one laid down in the precedent ***Deepak Kumar & Ors. v. State of Haryana & Ors.* (2012 4 SCC 629)**

1 The appeals were partly allowed. Item 6 of the substituted Appendix-IX forming part of the impugned notification dated March 28, 2020, amended notification dated August 30, 2023, were struck down and quashed. The exemption was found illegal on two grounds:

- **Procedural Illegality:** The Central Government invoked Rule 5(4) of the Environment (Protection) Rules, 1986 to dispense with the mandatory requirement of prior public notice (Rule 5(3)) without demonstrating the "public interest" necessary to justify such a decision, thereby vitiating the decision-making process.
- **Substantive Arbitrariness:** Item 6 constitutes a completely unguided and blanket exemption, violating Article 14 of the Constitution. It fails to define "linear projects," specify the permissible quantum of extraction, or provide regulatory safeguards, thereby defeating the objective of the EP Act to protect and improve the environment.

**NOBLE M. PAIKADA**  
**VS. UNION OF INDIA**  
**[2024 INSC 241]**

**SECTION 3(1) AND  
3(2)(V) OF THE  
ENVIRONMENT  
(PROTECTION) ACT,  
1986**

**RULE 5 (3) AND (4)  
OF THE  
ENVIRONMENT  
(PROTECTION)  
RULES, 1986**

# Whether the reliability of eyewitness testimony, the evidentiary value of forensic (FSL) reports, and the accused's refusal to participate in a Test Identification Parade can collectively establish guilt beyond reasonable doubt in a criminal trial?

**CONTEXT:** The appellants, Rajesh alias Sarkari and Ajay Hooda, were convicted along with a co-accused for the murder of Sandeep Hooda. Sandeep was fatally shot on 26 December 2006, near the law department of Maharishi Dayanand University, Rohtak. The initial First Information Report (FIR) was lodged based on the statement of Azad Singh (PW4), the deceased's father. Both the Sessions Court and the High Court convicted the appellants, leading to this appeal before the Supreme Court.

1 The appeal was allowed, and the appellants were acquitted of all charges. The Supreme Court of India held that the prosecution had failed to prove its case beyond a reasonable doubt.

2 The Court observed a “grave element of doubt” regarding the presence of the purported eye-witnesses (PW4 and PW5) at the scene, as their testimonies contained material contradictions and improvements, particularly about who transported the deceased to the hospital.

3 Moreover, the ballistics evidence in the Forensic Science Laboratory (FSL) reports had been found “contradictory and suffering from serious infirmities.” The prosecution's failure to examine the ballistics expert further weakened the evidentiary chain, leading the Court to acquit the appellants.

4 Relevant precedents include ***Mohinder Singh v. State of Punjab (AIR 1953 SC 415)***, and ***Gurucharan Singh v. State of Punjab (AIR 1956 SC 460)***.

**RAJESH @ SARKARI &  
ANR. VS. STATE OF  
HARYANA**  
**[2020 INSC 628]**

**SECTION 302 OF THE  
INDIAN PENAL CODE,  
1860 [CORRESPONDING  
TO SECTION 103 OF THE  
BHARATIYA NYAYA  
SANHITA, 2023]**

**SECTIONS 154 AND 313  
OF THE CODE OF  
CRIMINAL PROCEDURE,  
1973 [CORRESPONDING  
TO SECTION 173 AND  
349 OF THE BHARATIYA  
NAGARIK SURAKSHA  
SANHITA, 2023]**

**Whether a deviation from the prescribed route, as per the permit granted by the state transportation authority, impacts the liability of the Insurance Company for an accident occurring on such a deviated route, thus justifying the application of the 'pay and recover' principle?**

**CONTEXT:** The appeals arose from a claim seeking compensation for the death of Srinivasa alias Murthy, who was fatally hit by an offending vehicle (a bus) on 7th October 2014. The dependents filed a claim. The High Court revised the compensation payable. The legal dispute focused on the Insurance Company's liability, as the offending vehicle lacked the permit to enter Channapatna City, where the accident occurred, constituting a deviation from its authorized route (Bengaluru to Mysore). The High Court applied the 'pay and recover' principle.

① The appeals were dismissed. The Supreme Court found that the High Court's order applying the 'pay and recover' principle was entirely justified and required no interference.

② While denying compensation to the victim for an accident that occurred through no fault of their own would have been offensive to justice, expecting the insurer to pay when the vehicle owner had breached the contract's bounds (by deviating from the permitted route) was unfair.

③ Since the deviation was an undisputed, fundamental statutory infraction (citing ***Amrit Paul and Anr. v. TATA AIG General Insurance Company & Ors* (2018) 7 SCC 558**) and the principles established in ***National Insurance Co. Ltd. v. Swaran Singh* (2004) 3 SCC 297**), the insurer was directed to satisfy the award to the claimants first and was then entitled to recover the entire amount from the owner of the bus.

**K. NAGENDRA VS.**  
**THE NEW INDIA**  
**INSURANCE CO.**  
**LTD. & ORS**  
**[2025 INSC 1270]**

**SECTIONS 66, 149**  
**OF MOTOR VEHICLES**  
**ACT, 1988**