II – WORKSHOP

KRISHNA DISTRICT

TOPIC – VII

JUDGMENT WRITING

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There are many of us who are cricket, soccer or hockey lovers. The umpire has to give decisions during the progress of the game. The decision of the umpire will sometimes be discussed widely. Modern technology enabled reviewing of the decision with the help of photo capturing of replay and aid of graphics. If the decision is correct it will be hailed and welcomed. If the decision is wrong it will be widely criticized in the press and electronic media. Both players and viewers will respect good umpiring decisions.

Sometimes error of judgment leads to road accidents. Sometimes such accidents prove to be fatal. The same will be condemned by saying that the driver is negligent, careless or reckless. An umpire or a driver has to be always alert and vigilant. Both the decision of the Umpire or the reaction of the driver will be considered as a decision or judgment.

Judgment in legal parlance is what is really meant as judgment. It is the decision rendered in a given case based upon facts and circumstances in a given case. The facts and circumstances in a given case may include allegations, charge or charges, the oral, documentary, material or circumstantial evidence or lack of evidence in a given criminal case. The facts and circumstances in a civil case may include the pleadings, the issues, oral or documentary evidence, proof or admissibility of documents or facts.

**What is a Judgment?**

The first question that arises with regard to judgment is what does mean by a judgment. The word judgment is existing even prior to the development and emergence of the legal systems. Therefore a technologically the word judgment has to be considered from the general sense and in the legal sense. In the general sense judgment involves the act of judging, the operation of the mind, involving comparison and discrimination, by which knowledge of values and relation of things, whether of moral qualities, intellectual concepts, logical propositions, or material facts are appraised and evaluated. It can be said that by a careful judgment he avoided a mishap. It can be said that that by a series of wrong judgments the King has forfeited the confidence of his subjects. Giving judgment requires wisdom, intelligence, capacity, comprehension, understanding, savvy, intellect, sagacity, wit, acumen, and discernment. Giving judgment is an act of judging. It involves assessment, opinion perception, making estimation, making inferences, making valuation and sometimes guessing.
The word judgment is also considered in the following senses. 1) An act or instance of judging. 2) The ability to judge, make a decision, or form an opinion objectively, authoritative and wisely, especially in matters affecting good sense; discretion. A man will be referred as a man of sound judgment though he is not a judge himself. 3) The demonstration or exercise of such ability or capacity. For example the major was decorated for judgment he showed under fire. 4) The forming of an opinion, estimation, notion, or conclusion, as from circumstances presented to the mind. For example it can be said that our judgment as to the cause of his failure must rest on the evidence. 5) The opinion formed. For example, he regretted his hasty judgment. 6) In law, it can be said about a) judicial decision given by a judge or court. b) The obligation, especially a debt arising from a judicial decision. c) The certificate embodying such a decision and issued against the obligor especially a debtor. Judgment is a faculty of being able to make critical distinctions and achieve balanced viewpoint; discernment.

An order, a sentence, a verdict, an award, a decision will all be considered as synonymous with judgment.

**Legal meaning of judgment and provisions for judgment.**

Having considered the word judgment generally, meaning of judgment in legal sense has to be considered. Section 2 (9) of Civil Procedure Code defines judgment. “Judgment” means the statement given by the Judge on the grounds of a decree order. Judgment has relevance in civil matters, criminal matters, matrimonial matters, industrial disputes, while exercising admiralty jurisdiction with regard to the offences that take place on the high seas. Section 33 of CPC is captioned as Judgment and decree. It says that the court, after the case has been heard, shall pronounce judgment, and on such judgment a decree shall follow. Order XX Rules 1 to 20 of CPC deals with Judgment and Decree. Section 98 of CPC and section 392 of Cr. P. C. deals with the decision where appeal is heard by two or more Judges. The use of the word decision and opinion in these two sections is also used in the sense of judgment. Rules 30 to 32 of Order XLI of the CPC also deals with the Judgment. Rules 2 and 3 of Order XLVI CPC sections 395 and 396 of Cr.P.C dealing with Reference, also deal with judgment. Chapter XII of Civil Rules of practice also deals with deal with Judgments Decrees and Orders. Rules 142 to 153 are relevant in this record. Rule 171 of Civil Rules of Practice deals with Judgment in Appeal.

Coming to Criminal Procedure, Chapter XXVII deal with judgment. Among sections 353 to 365 the provisions for payment of compensation and costs are also included in the chapter on the Judgment. Sections 386 and 387 of Cr.P.C also deal with the judgment of the Appellate Courts and Subordinate Appellate Courts. Rules 65 to 78 and Rule 107 are the provisions with regard
to Judgments and Appellate Judgments in the Criminal Rules of Practice in state of Andhra Pradesh.

Contents of judgment

What shall be the contents of the judgment is a question which engages the mind of a new entrant to the Judiciary. Judgments of a Court of Small Causes shall contain the points for determination and the decision thereon. Judgments of other Courts shall contain concise statement of the case, the points for determination, the decision thereon and the reasons for such a decision. The judgments of an Appellate Court shall state the points for determination, the decision thereon, the reasons for the decision and where the decree appealed from is reversed or varied, the relief to which the appellant is entitled. In criminal cases Judgment shall contain the point or points for determination, the decision thereon and the reasons for the decision. It shall specify the offence for which and the section of the Indian Penal Code or other law under which the accused is convicted and the punishment to which he is sentenced. If it is a judgment of acquittal, it shall state the offence for which the accused is acquitted and direct, if the accused is in judicial custody, that he be set at liberty. If it is doubtful under which of the two penal provisions the accused is found guilty then Court shall distinctly express the same and pass judgment in the alternative. The reasons for the sentence awarded shall be stated. If death penalty is awarded the special reasons for the same has to be stated as the death sentence is subject to confirmation by the High Court.

Communication of the judgment

A Judgment makes a communication with the parties to the proceedings and the Counsel for the parties which may include an Assistant Public Prosecutor or a Public Prosecutor. Therefore a judgment has to be expressive and clear. The judgment shall also show that there is clarity in the mind of the judge while making decision in a particular case. Command over the language is required. A judgment may be rendered in the language of the court. Depending upon the official language of the court, a judgment may be in English, Hindi, Telugu, Kannada, Tamil or Urdu etc. Working command over the language is sufficient for delivering a good judgment. Mastery over the language is not necessary. If such a mastery is there, it is good. It has to be remembered that language is a medium of expression. Use of bombastic language is not required while rendering judgment. Search and use of words which are not ordinarily used has to be avoided. There is a difference between a natural flower and an artificial flower. A natural flower has beauty, tenderness, softness, fragrance. An artificial flower is only an imitation but not a reality. A bud unfolds as a flower. Unfolding of a flower would be gradual and natural. If a fully grown bud is unfolded manually, the flower will not have that beauty as a naturally bloomed flower. Likewise in a judgment there has to be proper
presentation of the case, the issues involved or the points to be determined, the consideration of evidence, maybe oral and documentary, its relevance and admissibility, and the decision with reasons, the relief claimed or granted has to be stated. There has to be gradual unfolding of the facts as stated by the witnesses. The discussion with regard to the evidence shall be as far as is required in a particular case. The reproduction of evidence is not required. Discussion of evidence which is sufficient for understanding the case is enough.

It is an everyday task for a judge to write a judgments. It is something we do day in and day out. Some judgments are most simple and they can be routinely dealt with quickly. Others are more complex and require deeper thought. All of us constantly strive to write better and clear judgments. How do we write them? A judge has to be clear with regard to the purpose for which he is writing the judgment. He has to clarify his own thoughts. He may ask the parties to explain on any unclear aspects. The losing party will think more about the judgment. The winning party will not be concerned about the reasons for the judgment but he will think about the decision and will feel satisfied with the result. There has to be candid explanation of the reasons for the decision. He has to communicate the reasons for the decisions to the public. Finally he has to provide reasons for an appellate court to consider. A judgment has to be precise and to the point. It need not be as concise as the judgment of a second appellate court. It has to state the facts, evidence and the case as can be understood on seeing the judgment. The Principles involved have to be clearly stated. Active voice has to be used rather than passive voice. The active voice is more direct and vigorous than the passive. Judges communicate with the public through judgments that they write. In order to communicate, a judgments must be clear, precise, and say everything that needs to be said as to why a decision is reached and nothing more. The parties and their lawyers need to know how and why a decision has been reached. It is particularly important that the losing party knows why he or she has lost the case. It is natural for someone who loses to feel disappointed with the legal process. So it is important that the reasons for the judgment show that the losing party has been properly represented, that the evidence has been understood, the submissions have been comprehended and decision reached. We have to show that our judgments are concise, clear, interesting and accessible. There has to be clarity in the comprehension. The ideas and thoughts have to be clear. When they are clear we are able to express them clearly. There has to be clarity in considering and stating the facts. There has to be clarity in understanding and stating the law. There has to be clarity in application of the law to the facts. There has to be clarity while reaching the conclusion and stating the same.
A civil case involves resolution of facts in issue. In a civil case the facts in issue are determined by the pleadings. The pleadings will reveal what facts are in dispute and what facts have to be determined. It is important for the decision maker to resolve each of the facts in issue and to answer the said issues.

**Style of judgment:**

If a judge understands the purpose of the case, the facts of the case, the issues and points involved, how the law has to be applied and the decision he has to convey. He may adopt his own style of writing judgments. The style of writing judgments involves skill and experience an officer may gain over a period of time. We have to understand the correct rules of grammar, syntax and punctuation. Clear thinking leads to clear writing. A clearly expressed judgment demonstrates the interest of the subject matter and the exposition of legal reasoning.

A judgment has to be like a system. A system includes parts. A system is a whole of the parts. A judgment must have a form. Judgment has to indicate the court in which the judgment is being delivered, the judge who is delivering the judgment, the date when Judgment is being delivered, the case number, the parties to the suit or the case, who are presenting the case on behalf of the parties to the suit, whether it is being heard ex parte or whether all are being represented by counsel or not etc. It should indicate whether it is typed to dictation, or dictated to the stenographer and transcripted and pronounced. The date at the end of the judgment. Modern judgments are being delivered with use of computers. Cut, copy and paste has become an order of the day. While copying the format sometimes we find that stenographers copy the date on which a previous judgment is delivered. Sometimes there will be mismatch of the date at the top and at the end. This has to be checked and verified.

The pressure is increasing as the cases are increasing and the courts are not increasing. Brevity, simplicity and clarity are the prerequisites of a good judgment. Pressure upon modern judges is increasing. The workload is increasing. The expectations are increasing. The backlog is increasing. There is relentless institutional pressure for speedier Justice. Speedier Justice shall not turn into spadework. The time for reflection, for careful planning, thoughtful research, well thought out use of language is required. It cannot be believed that their judgment can be delivered mechanically. Though it may be true with regard to the simple matters, there will be complex matters which involves questions of law, questions of application of law, and consideration of Precedents, sifting of evidence, and evaluation of evidence and application of principles to the law. Judgment involves reflection. It is a thought process. Crown Chair is there for listening the parties and their advocates. It is for presiding over the proceedings. It is not for doing administrative work. A judge
can churn out more work in his chambers. Saturdays and public holidays are the more productive days for a judge. Cases demand studying of record, comparison of evidence, perusal of documents, considering their contents, understanding their scope, the terms and the validity of the document. Sometime legal propositions have to be compared and applied in the factual context of the case. A judge will not sit idly in his chambers. He will take up the work depending upon his ability and depending upon the priority of the work involved. A judge is not like a clerk in a booking counter. His work is not mechanical. His work involves appreciation, application and reflection. It is a thought process. His tools are his experience, learning, books, library, judgments of the higher courts, his comprehension, his own analytical ability, his power of resolution, his practical experience, his understanding of social problems and his moorings. The record can be studied well in isolation. His concentration will be better when the judgment is dictated in his chambers or at his home office free from distractions and diversions. It is a continuous learning for a judge or a lawyer. They will be perennial learners. Law has to be considered from many angles. Whenever new situations arise they will pose new challenges. From new challenges new solutions will come up.

**Quality versus quantity:**

Due to pressure and demand of work there has to be more output from a judge. He has to show the quantitative outturn of work. At the same time he has to qualitatively give decisions. The qualitative decisions require proper preparation, proper appreciation, proper consideration, proper presentation, and proper determination of the questions involved. It is not exaggeration to say that judges will think about their case while attending to their daily cores. His task has to be understood. He needs atmosphere of freedom and noninterference. The quality cannot be compromised with. Judges have to uphold the individual intellectual integrity of our system of law which must daily demonstrate, by its performance in particular cases, its adherence to the law, attentiveness to the augments, impartiality and logical reasoning. A judgment will be tested for the accuracy and fairness in fact findings. The judgment has to demonstrate that the judge had the correct principles in mind and properly applied them. Reassurance of the quality of the judiciary is centerpiece of administration Justice.

**Judgment of judgments**

Our judgments will be read, assessed and deliberated by the parties to the proceedings, and their advocates. Our judgments will also be considered by the appellate courts. Judgments of the judges will also have profound impact over the lives of the parties. We have to write judgments not only for those before us but also for those whom we have not seen. Our judgments will decide the rights and obligations the of the parties. They will affect the rights of not
only those in the present generation but also the rights of the progeny of the parties. Through judgments we make decisions. We make decisions for others. The New Testament states about the Judgment Day. Judgment Day is considered as the day of the Last Judgment when God will decree the fates of all men according to the good and evil of earthly lives. This is true in all the religions. Our actions will be judged by the God. With that feeling we have to think of doing good and writing correctly. Then everything will be in order. We will not commit any mistakes deliberately.

**Preparation and Judgment**

There will be marked difference between a judgment written after reading the entire record and then starting the judgment and a judgment dictated while reading the record. Similarly there will also be difference between a judgment written by a judge in a suit or case in which he has conducted the trial and a judgment which is delivered in a suit or case in which the trial was conducted by a previous judge. However the judges who are trained well and have gained good experience can overcome this limitation. If a judge makes preparation of reading the record and mentally deciding after thorough reading of the record as to the result of the case and then starts writing the judgment it will end as a good judgment. A judge has to be thorough with the record and commence giving dictation. Then he knows how to commence the judgment and how to end a judgment and there will be flow of thoughts. Then there will be a judgment which commences well and concludes well.

**Learning as a catalyst**

A judicial officer has to be thorough with the basic postulates in civil cases and in criminal cases. He has to have a good idea on whom the burden of proof lies, and whether the said burden of proof is properly discharged. A judge has to be thorough with the jurisprudential aspects. He has to know well how a right is created, how it continues, how it gets transferred or extinguished. He has to know well the different kinds of rights. He has to know well the concept of possession and different kinds of possession. He must be thorough with the concept of ownership and its attributes.

Any judicial officer has to be thorough with the Circular Instructions issued by the honorable High Court and with the Civil and Criminal Rules of Practice. A judge communicates with silence and a judge communicates with his eloquence. A judge is supposed to be a specialist in writing judgments. Mastery can be gained over a period of time with experience and learning. Judgment writing is a fine art. There is difference between appreciating a sculpture and chiseling out and sculpturing an idol or an art piece. Sculpture learns his skill and art through training, practice and patience. Sculpture's work has origin in his brain. It is easy to comment about a sculpture but it is
difficult to carve out a piece of art. A judge shall always aim at writing good judgments. If such an aim is there, he will always improve and will write better and better judgments and will write very good judgments.

**Tips about writing Judgment:**

Know the purpose of the judgment.
Be thorough with the legal provisions about the judgment.
Be sure about the contents of the judgment.
Be sure about the form of the judgment.
Remember that judgment makes communication.
Language is the medium of communication.
Have working command over the language.
There has to be unfolding discussion in the judgment.
Be thorough with the preparation for the judgment.
Have your own style of judgment.
Maintain good quality in writing judgment.
There has to be brevity in judgment.
Maintain simplicity in writing judgment.
There has to be clarity in writing judgment.
Use active voice in writing judgments.
Avoid using passive voice.
Always give reasons for your opinions and decisions.
Avoid vagueness in writing judgment.
Don’t be dismissive while discussing about the augments, show reasons for acceptance or rejection.
Know the distinction between criminal judgment and a civil judgment.
Take up the issues in the logical order.
Discuss and answer the issues.
Discuss about the offences and answer whether they are proved or not.
Avoid using the reference to LWs. Instead mention the names.
After stating about the examination of witnesses refer them as PWs.
Be thorough with the guidelines of the honorable High Court.
Be thorough with the Civil and Criminal Rules of Practice with regard to the guidelines for writing judgments.
State about the description of the exhibits while stating about them for the first time.
Remember that judgment is a mental process reflected in your work.
Practice improves judgments.
Aim to write good judgments.
Believe in yourself, you will write very good judgments.
Strive for excellence, you will write very good judgments.
JUDGMENT WRITING

Paper Presented by
Sri Y. Srinivasa Rao
Assistant Sessions Judge,
Avanigadda.

"The Judgment should refer to the principles of law relevant to the
determination of the dispute. If this is not done, then on an appeal it may
be argued that the judge did not know what the principles of were
or, indeed, did not know what he was deciding”
-- Honourable Dennis Mahony

Introduction:
Judge speaks through judgment. Generally, as per view of the common man, a
judgment to mean the ability of a judge to make considerable decisions.
Legally, Section 2(9) of Civil Procedure Code, 1908 defines the word ‘judgment’
to mean “a statement given by the Judge on the grounds of a decree or order”.
However, this exact definition is absent in Criminal Procedure Code. To avoid
confusion, any finding of a judge at the end of the proceedings of a suit, or
appeal or revision or other interlocutory proceedings etc., within the four
corners of law can be termed as a judgment. Every Judge will have his own
style of writing judgments.

" The objective of codification to secure uniformity
where you can have it, diversity where you must have it,
but in all cases, certainty”. – Macauly
(Macauly, House of Commons, 10th July, 1833)

The main purpose of the judgment is to communicate to the parties and other
stakeholders the decision of the Court in regard to the litigation. A Judgment
acts as a precedent and therefore it should carry the message for posterity. It
should be understandable by even those who lost in the case.

How to begin a judgment:-
A judgment must begin with clear recital of facts of the case, cause of action
and the manner in which the case has been brought to the Court. First of all,
the Presiding Officer must have essential facts in mind, and its narration
should be without any error or mistake. Presiding Officer is required to tell the
parties of the decision, on the facts brought before him, with application of
sound principles of law, his decision, and what the parties are supposed to do
as a necessary consequent to the decision or to appeal against it.

Language and style of judgment:-
As I said earlier, proper use of English creates good impact. While writing a
judgment, Judge shall give a brief prologue to introduce the theory of the case.
Judge should avoid repeating pleadings and the law in the judgment. Presiding
officer should set the scene simply and clearly. No long, winding and boring
sentences should be written in the judgment. Judge may write judgment in a style he is comfortable with. It is advised to use clear sentence structures and organization. It is better to Identify characters before telling what they did. It is desirable to use spot citations like exact pages. Be formal, clear, simple and free of jargon. It is always better to use plain English. Of course, Latin phrases may be used sparingly where necessary and inevitable. Liberal use of Latin phrases becomes subject of criticism, In England, the Court observed “ I think the cases are comparatively few in which much light is obtained by the liberal use of Latin phrases. Nobody can derive any assistance from the phrase Novus acus interveniens until it is translated into English” (See. **Ingram v. United Automobile Services Ltd.**(1943) 2 All E R 71).

**Language of the judgment:**

Section 354 of Cr.P.C prescribes the language of the judgment and requires the points for determination, the decision thereon, the reasons for the decision that it shall be dated and signed in open court. **His lordship KRISHNA IYER, J.** observed as follows: ‘The Justice System ceases to be functional if courts do not make the technology of statutory construction serve the betterment of society. In Cardozo's lofty diction: "We may figure the task of the judge, if we please, as the task of a translator, the reading of signs and symbols given from without. None the less, we will not set men to such a task, unless they have absorbed the spirit, and have filled themselves with a love, of the language they must read ." (1) If a broad and viable reading of statutory language were not adopted by Judges filled with the wish to make things work according to social justice courts may be classed with the dinosaurs.” It is always better to avoid use of complicated language or phraseology just for the fun of it. Use simple verbs and keep them as close to the subject which they refer as possible. A judgment should not be prolix or verbose. The language should be sober and temperate and not satirical or factious. It is always better to prefer to use active voice rather than using passive voice. Although good style is very much a matter of personal test, but the basic rules of grammar, structure and above all, common sense, should be applied.

**Proper use of English Grammar:-**

For easy understanding, proper use of Grammar and punctuation is always essential. Correct use of grammar definitely shows professionalism of a Judge and thereby it makes writing much easier to understand. Judge should go through judgments by superior courts and senior judges to appreciate the use of style and language in making judgments more professional. British English must be used at all times and American English must be discouraged. Latin phrases could be used if and when it is necessary to do so.

**For the purpose of framing of a charge:-** Section 240 of the Code provides for framing of a charge if, upon consideration of the police report and the
documents sent therewith and making such examination, if any, of the accused as the Magistrate thinks necessary, the Magistrate is of the opinion that there is ground for presuming that the accused has committed an offence triable under Chapter XIX, which such Magistrate is competent to try and which can be adequately punished by him. See: Sheoraj Singh Ahlawat & Ors vs State Of U.P (Supra). **Judicial opinion is required**: The judicial opinion regarding the approach to be adopted for framing of charge is that such charges should be framed if the Court prima facie finds that there is sufficient ground for proceeding against the accused. The Court is not required to appreciate evidence as if to determine whether the material produced was sufficient to convict the accused. The following passage from the decision in State of M.P. Vs. Mohanlal Soni, 2000 Cri.LJ 3504 is in this regard apposite: “8. The crystallized judicial view is that at the stage of framing charge, the court has to prima facie consider whether there is sufficient ground for proceeding against the accused. The court is not required to appreciate evidence to conclude whether the materials produced are sufficient or not for convicting the accused.” **The proceedings under section 240 amount Trial**: In V.C.Shukla Vs. State through C.B.I, AIR 1980 SC 962, the Hon’ble Apex Court held as infra: “...The proceedings starting with Section 238 of the Code including any discharge or framing of charges under Section 239 or 240 amount to a trial...” See: Hardeep Singh vs State Of Punjab & Ors (2014). **“nullus commodum capere potest de injuria sua propria”**: In Union of India & Ors. V. Major General Madan Lal Yadav (Retd.), AIR 1996 SC 1340, a three-Judge Bench while dealing with the proceedings in General Court Martial under the provisions of the Army Act, 1950, applied legal maxim “nullus commodum capere potest de injuria sua propria” (no one can take advantage of his own wrong), and referred to various dictionary meanings of the word ‘trial’ and came to the conclusion: “It would, therefore, be clear that trial means act of proving or judicial examination or determination of the issues including its own jurisdiction or authority in accordance with law or adjudging guilt or innocence of the accused including all steps necessary thereto. The trial commences with the performance of the first act or steps necessary or essential to proceed with the trial. **Sections 228 and 240 of Cr.P.C.**: In “Common Cause”, A Registered Society thr. Its Director v. Union of India & Ors., AIR 1997 SC 1539, the Hon’ble Apex Court while dealing with the issue held: “(i) In case of trials before Sessions Court the trials shall be treated to have commenced when charges are framed under Section 228 of the Code of Criminal Procedure, 1973 in the concerned cases. ii) In cases of trials of warrant cases by Magistrates if the cases are instituted upon police reports the trials shall be treated to have commenced when charges are framed under Section 240 of the Code of
Criminal Procedure, 1973, while in trials of warrant cases by Magistrates when
cases are instituted otherwise than on police report such trials shall be treated
to have commenced when charges are framed against the concerned accused
under Section 246 of the Code of Criminal Procedure, 1973. iii) In cases of
trials of summons cases by Magistrates the trials would be considered to have
commenced when the accused who appear or are brought before the Magistrate
are asked under Section 251 whether they plead guilty or have any defence to
make.” (Emphasis added). The right of accused at the stage of framing
charge:- In State Anti-Corruption Bureau, Hyderabad and Another v. P.
Suryaprasasam [1999 SCC (Crl.) 373] where considering the scope of Sections
239 and 240 of the Code it was held that at the time of framing of charge, what
the trial court is required to, and can consider are only the police report
referred to under Section 173 of the Code and the documents sent with it. The
only right the accused has at that stage is of being heard and nothing beyond
The net result of this analysis would be that under the procedural
law the accused does not get a right to invite the Court to consider any other
additional material than the one collected by the police, lodged with the
Magistrate and forwarded to the Court of Session, on which the prosecution
wants to rely for the purpose of claiming a discharge. Section 211 of the Code
explains us about the contents of charge. Section 215 of the Code deals with
effect of errors in charge. Section 464 of the Code describes as to effect of
omission to frame, or absence of, or error in, charge. We refer to the dicta of the
Hon’ble Apex Court in Mohan Singh Vs. State of Bihar, the importance of
framing charge in criminal case has clearly been explained. Similarly, V.C.
Shukla v. State Through C.B.I.,reported in (1980) Supplementary SCC 92 at
page 150 and paragraph 110 is another important ruling to know the
importance of framing charge in a criminal case. Landmark rulings regarding
framing of charge in criminal cases:- 1) K. Prema S. Rao and another v.
Supplementary SCC 92 at page 150 10) Rawalpenta Venkalu and another
Set out points for determination:-
In a criminal case, it is the duty of judge to set out points for determination and to give decisions on each point in the judgment (Ref: Swaminathan Ambalam Vs. P.K.Nagaraja Pillai, 1973 Mad.110). It is the duty of the trial Court to refer to the evidence in respect of the points of the points at issue between the parties before he arrives at his findings; (Ref: R.K.Lukhoisna Singh Vs. Yumnam Laingam Singh, AIR 1961 Mani 10). A judgment containing findings without proper pleading and necessary issues is bad. Language of the judgment should not be unbalanced; Ref: D.Morcopollo & Co. (P) Ltd. Vs. D.D.Marcopollo & Co. (P) Ltd., Employees Union, 1958 SC 1012. A party, who has raised a contention which is available to him under the law, is entitled to a fair and proper hearing on that and to finding by the courts of fact on such contention; Ref: Minala Vs. Anchi Devi, AIR 1965 Pat 66. If it is a criminal trial, he may proceed to notice charges and in other matters, the points for determination within the periphery of which the evidence led by the parties can be marshalled and sifted and the arguments of their counsel examined. As to criminal case is concerned, Section 354 of the Code of Criminal Procedure provides that the judgment should contain points for determination for decision and the reasons for such decision. Framing of issues in a civil case and charges in criminal trial are the essential requirements of law.

Burden of proof:-
The concept of burden of proof is explained in Sections 101 to 114 of the Indian Evidence Act,1872. Presiding officer must keep in mind the rules of determining burden of proof and the statutory exceptions to the general rules thereon. It is always essential to remember to state vividly and correctly who bears the burden to prove the case or issue stated and to what standard. In criminal cases, the principle is beyond all reasonable doubt whereas in civil cases, it is on the preponderance of probabilities with some exceptions where fraud is pleaded.

Application of the law to the facts of the case:-
Judgment should refer to the principles applicable as to the case law and the statutory law. Application of the law the facts of a case is the crux of judgment writing. What we call appreciation of evidence in the judgment is done at this stage. Judge should evaluate the evidence as a whole for the both sides. This is where the ratio decidendi is stated and the case is decided finally.

Avoid Loading Judgment with Citations/Authorities:-
When several authorities are brought before court, Judge should apply only relevant cases and distinguish those he considers not applicable. It is significant to note that judgment should not be loaded with several authorities. Only relevant authorities must be referred to in the judgment. It is good to avoid loading judgment with authorities. While writing a judgment, the task of
the Judge is such that reference should be made to arguments for both sides, apply the law objectively and draw a conclusion on each issue/point for determination. No doubt, it is true that the case annotations are an important research tool. While referring to a case citation, if authority is required, it is suggested that only the leading or most cogent authority is used. Do not write ‘in the case of Y v Z’. This is tautologous. Rather use ‘In Y v Z’ or ‘Y v Z decided that . . .’. Where there are several parties the reference in the reports will be to ‘others’ or ‘another’. The preferred citation M/S Kranti Asso. Pvt.ltd. & Another v. Masood Ahmed Khan & Others. In subsequent references to a case omit ‘another’ and ‘others’ unless either is necessary to make sense of what is being written.

**How to quote citations?**

Avoid quoting editor’s not in judgments. The Editors do not deliver judgments but prepare Head-note/placitum according to their understanding. (Akhilesh Jindani (Jain) And Anr. vs State Of Chhattisgarh, 2002 CriLJ 1660). In Prakash Amichand Shah vs State Of Gujarat & Ors , 1986 AIR 468, the Hon’ble Five Judges Bench held that ‘a decision ordinarily is a decision on the case before the Court, while the principle underlying the decision would be bindings as a precedent in a case which comes up for decision subsequently. Hence, while applying the decision to a later case, the Court which dealing with it should carefully try to certain the true principle laid down by the previous decision. A decision often takes its colour from the questions involved in the case in which it is rendered. The scope and authority of a precedent should never be expanded unnecessarily beyond the needs of a given situation’. Presiding officer must go through the entire judgment to understand the ratio laid down in it.

**Potent factors while writing judgment in criminal side:-**

Essential elements that constitute a crime charged are to be considered. Generally, every crime except for those crimes of strict liability, have elements for both the *mes rea* and *actus rue*. Ingredients should be stated clearly and fully resolved one by one in logical order to ensure the judgment flows. Remember that judge speaks through judgment to the parties and other stakeholders. The judgment should quote the charges as the case may be immediately after the narration of facts of the case. Chapter XXVII of the Code of Criminal Procedure, 1973 provides for ‘the Judgment’. Section 353 requires the judgment in every trial to be pronounced in open Court immediately after the termination of the trial, or at some subsequent time of which notice shall be given to the parties or their pleaders.

The judgment , as provided in Section 354, is to be written in the language of the Court. and that it shall contain the point or points for determination, the decision thereon and the reasons for the decision. This section also explains
that the judgment shall specify the offence (if any) of which, and the section of
IPC, or other law under it, accused is convicted and punishment to which he is
sentenced. If the judgment is of acquittal, it shall state the offence of which the
accused is acquitted and direct that accused should be set at liberty, if he is in
judicial custody and his presence is not required in other case. Property order
should carefully be noted in the result portion. In case of conviction for an
offence punishable with death or in the alternative with imprisonment for life,
the judgment has to state the reasons for sentence awarded and special
reasons for death sentence. In case of conviction with imprisonment for a term
of one year or more, a shorter term of less than three months, also requires the
Court to record reasons for awarding such sentence unless the sentence is one
of imprisonment, till the rising of the Court or unless the case was tried
summarily under the provisions of the Code. As to passing certain orders
under Section 117 (for keeping peace and for good behaviour), Section 138(2)
(confirming order for removal of nuisance), Section 125 (for maintenance) and
Section 145 or 147 (disputes as to immovable properties), the Code of Criminal
Procedure, 1973 provides in sub-section (6) that order shall contain the point
or points for determination, the decision thereon and the reasons for the
decision.

Section 355 of the Code further explains a summary method of writing
judgment by Metropolitan Magistrate, giving only particulars regarding the
case, name, parentage and residence of the accused and complainant, the
offence complained of or proved; plea of the accused and his examination (if
any); the final order and the date of order, and where appeal lies, a brief
statement of the reasons for the decision. The order to pay compensation where
the Court imposes sentence or fine; order of compensation for groundless
arrest and the order to pay cost in non-cognizable cases, may be made with the
judgment under Sections 357, 358 and 359 of the Cr.P.C. Section 360 Cr.P.C
says to release on probation and special reasons in certain cases where the
Court deals with accused under Section 360 of Cr.P.C or The Probation of
Offenders Act, 1958. Section 357-A of Cr.P.C should be kept in mind for
awarding compensation to the victim. As was held by the Hon’ble Supreme
Court of India, even interim compensation can be granted to victim in criminal
cases. Name of the victim in cases like rape, outrage of woman etc., should be
avoided.

**Appreciation of evidence:-**

While appreciating the evidence of a witness, the approach must be
whether the evidence of witness read as a whole appears to have a ring of
truth. Once that impression is found, it is undoubtedly necessary for the Court
to scrutinize the evidence more particularly keeping in view the deficiencies,
drawbacks and infirmities pointed out in the evidence as a whole and evaluate
them to find out whether it is against the general tenor of the evidence and whether the earlier evaluation of the evidence is shaken as to render it unworthy of belief. (Ref: State Of U.P vs Krishna Master & Ors).

Appreciation of evidence in criminal case differs to that of the appreciation of evidence in civil case because in criminal cases, the prosecution has to prove the guilt of accused beyond all reasonable doubt whereas in civil case, the case should be disposed of on principle of preponderance of probabilities. The truth or otherwise of the evidence has to be weighed pragmatically.

A salient feature is such that a court ought to satisfy itself from the evidence whether the conditions under which the identification is claimed to have been made were or were not difficult and to warn itself of the of the possibility of mistaken identity. The Court should then proceed to evaluate the evidence cautiously and carefully so that it does not convict or uphold a conviction, unless it is satisfied that mistaken identity is ruled out. To fulfill this task, the Court must consider the evidence as a whole, namely the evidence if any, of factors favouring correct identification together with those rendering it difficult. It is trite law that no piece of evidence should be weighed except in relation to all the rest of evidence. The court would be required to analyse the evidence of related witnesses and those witnesses who are inimically disposed towards the party. After careful analysis and scrutiny of their evidence, the version given by the witnesses appears to be clear, cogent and credible, there is no reason to discard the same.

**Avoid harsh or disparaging remarks against persons and authorities:**

As was pointed Niranjan Patnaik vs. Sashibhusam Kar & Another., 1986 (2) SCR 47, harsh or disparaging remarks are not to be made against persons and authorities whose conduct comes into consideration before courts of law unless it is really necessary for the decision of the case. Use of intemperate language or making disparaging remarks against any one unless that be the requirement for deciding the case, is inconsistent with judicial behaviour. In the case of State of M.P. v. Nandlal Jaiswal & Others, (1986) 4 SCC 566, his Lordship Bhagwati, Hon’ble Chief Justice, held: "We may observe in conclusion that judges should not use strong and carping language while criticizing the conduct of parties or their witnesses. They must act with sobriety, moderation and restraint. They must have the humility to recognize that they are not infallible and any harsh and disparaging strictures passed by them against any party may be mistaken and unjustified and if so, they may do considerable harm and mischief and result in injustice."

**The decision on each and every issue framed or points formulated:**

The Judge/Magistrate may thereafter proceed to decide the issues or the points for determination, in the order they are framed. Likewise if it is a
criminal trial, findings should be recorded charge wise. He should discuss the arguments of each party with reference to their evidence relevant to the issue / point in the question. Evidence of each of the issue / point should be sifted in the context of arguments raised. The Presiding Officer should record his finding on each of such issues by supplying his own reasons and giving logic for his doing so and not just by accepting the case of one party or rejecting that of the other. Findings on each of the points should be recorded in such a manner that they remain cohesive and linked to each other. The judgment should be sound reasoned. As was pointed out in **Makhan Lal Bangal v. Manas Bhunia [2001 (2) SCC 652]**, the issues are important as they determine the scope of a trial by laying down the path for the trial to proceed, free from diversions and departures.

**Reasons for decision:-**

A bald decision unsupported by any reasons has not really been countenanced or recognised as a judicial decision. (See. **Bansi And Ors. vs Hari Singh And Ors. AIR 1956 All 297**). What is required is a reasoned judgment and not reasons for the judgment. As was observed by the Hon’ble Apex Court in catena rulings, the necessity of giving reasons flows as a necessary corollary from the rule of law which constitutes one of the basic principles of our constitutional set up. (Ref: **Ram Murti Saran vs State Of U.P. And Ors; AIR 1971 All 54**). It is bad to consider only one side in isolation of the other. Judges should give clear and sound reasons for the decision and demonstrate that both sides have had their propositions considered. In the judicial sphere reasons have always formed an integral part of the decision in a broad sense. Never consider one side in isolation of the other.

**Justice delayed is Justice denied:-**

Time is of the essence in the delivery of justice. Delay in handing down the decision increases their agony and frustration. Of course, Justice hurried is Justice buried. What is more important is that litigants must have complete confidence in the results of litigation. This confidence tends to be shaken if there is excessive delay between hearing of arguments and delivery of judgments. (Ref: **R.C.Sharma Vs. Union of India (1976)3-SCC-574**). In criminal cases are concerned, the Hon’ble Supreme Court in **HUSSAINARA KHATOON vs. STATE OF BIHAR [AIR 1979 SC 1364]** has held that "a system of criminal procedure which did not prescribe a speedy trial could not be said to be either fair or reasonable and speedy trial is of essence to criminal justice and there can be no doubt that the delay in trial by itself constitutes denial of justice".

**Clerical and arithmetical mistakes:-**

The Hon’ble Apex Court in **Hari Singh Mann v. Harbhajan Singh Bajwa, (2001) 1 SCC 169; (2000 AIR SCW 3848; AIR 2001 SC 43; 2001 Cri.LJ**
Section 362 of the Criminal Procedure Code mandates that no Court, when it has signed its judgment or final order disposing of a case shall alter or the same except to correct a clerical or an arithmetical error and that this section is based on an acknowledged principle of law that once a matter is finally disposed of by a Court, the said Court in the absence of a specific statutory provision becomes functus officio and dis-entitled to entertain a fresh prayer for the same relief unless the former order of final disposal is set aside by the Court of competent jurisdiction.

**Conclusion:-**

Any judgment of the court has to serve justice. Such judgment must be valid in terms of our Constitution and the enactments guiding it. Justification for reasoning must be based on the law but it cannot appear to be attributed to personal animadvert, opinions, imagine of a judicial officer/Judge. The principle of *Ne Bis In Idem* (double jeopardy), by prohibiting of abuses of second prosecution for the same offence after acquittal or conviction and multiple punishments for the same office, protects individuals. See. Article 20 (2) of Indian Constitution (It only applies to second prosecutions and punishments for the same offence). Also see. *Green Vs. US*, 355 US 184, 187-88 (1957). If where an act or omission constitutes an offence under two or more Acts then the offence shall be liable to prosecuted under either or any of those enactments, but he shall not be liable to be punished twice for the same offence. See. Section 26 of General CLauses Act,1987. Also See. section 71 of IPC as to an offence is made -up of parts. Section 300 of the Code of Criminal Procedure,1973 describes three exceptions. See. Section 300 (3) Cr.P.C, Section 300 (4) Cr.P.C, Section 300 (5) Cr.P.C. However, discharge under Section 258 of Cr.P.C is not an exception.

Judge is required to tell the parties of the decision, on the facts brought before him, with application of sound principles of law, his decision, and what the parties are supposed to do as a necessary consequent to the judgment or to appeal against it. Judge should consider the evidence as a whole before deciding case finally. After judgment is ready, and before pronouncing judgment in open court, the presiding officer must carefully check the entire judgment and in case of any spelling mistakes are found, those should be corrected then and there itself. Beware of copying data from the computers. At most care should be taken while copying text from the computers/internet. It is always to profit worth to avoid to refer to the educational qualifications of a judge in the judgment. Parties come to Court because they are aggrieved. Write judgments regularly as a way of practicing and perfecting the science and art of writing understandable judgments.
INTRODUCTION:

After completion of trial the court pronounced judgment in criminal side. The Chapter 27 Criminal Procedure Code, 1973 consisting of Secs.353 to 365. The judgment in every trial in any criminal court shall be pronounced in open court by the presiding officer immediately after the termination of the trial or at some subsequent time of which notice shall be given to the parties or their pleaders. The Presiding Officer signed the transcript on every page as soon as it is made ready and write on it the date of the delivery of the judgment in open court. While pronouncing the judgment if the accused is in custody he shall be brought up to hear the judgment pronounced. The copy of judgment shall be immediately made available for the perusal of the party or their pleaders on free of cost. If the accused is not in custody he shall be required to attend the court to hear the judgment pronounced except the dispensing of his attendance during trial.

There is no format or formula to be followed while writing the judgment. However, the judgment shall communicate the proceedings before the Court right from filing of the Charge Sheet till pronouncement of the judgment. The judgment shall be written in the language of the court and contain the points for determination and the decision arrived thereon and reasons for the such decision. The judgment also shall contain the offences for which the accused is convicted or acquitted and sentenced for the particular offence. The conviction is for an offence punishable with death or with imprisonment for life or imprisonment for term of some years, the judgment shall state the reasons for the sentence awarded and special reason for the death sentence. If the conviction is for an offence punishable with imprisonment for a term of one year or more and court imposes sentence for less than three months, the court shall record the reason. When the person is sentenced to death, the sentence shall direct that he be hanged by the neck till he is dead. The authorities of our Apex Court vide AIR 1999 S.C. 1926. The Lordship held that the conviction u/s.302 IPC the normal rule is to award punishment of life imprisonment and punishment of death should be reserved in rarest of rare cases. AIR 2013 S.C.2083. The Lordship held that the judgment without reasons is no judgment in the eye of law.
Generally the judgment contain the following particulars namely the serial number of the case, date of commission of the offence, name of the complainant, if any, the name of the accused person and his parentage and residence, the offence complained of, the plea of the accused and his examination, the final order and the date of such order. From the person having been convicted by a court in India for offences punishable u/s.215, 489-A, B, C and D or Sec.506 which relates to criminal intimidation punishable with imprisonment for 7 years or with fine or with both shall be notified.

Sec.357 of Code of Criminal Procedure mandates that the court imposes a sentence of fine or a sentence of which fine forms a part, the court may order the whole or any part of the fine recovered to be applied for expenses incurred in the prosecution, to a person as compensation for any loss or injury caused by the offence and loss of the property purchased by other person in bonafide and faith in case of theft, cheating, misappropriation and breach of trust etc. As per the Amendment Act V of 2009 the Sec.357-A was incorporated to the Code which mandates that every state government in coordination with the Central Government shall prepare a scheme for providing funds for the purpose of compensation to the victim or his defendants who have suffered loss or injury as a result of the crime for rehabilitation. As per authority reported in AIR 2001 S.C. 567. The Lordship held that no limit on award of compensation u/s.357 Cr.P.C. The compensation shall be in addition to fine in case of punishment u/s.326-A or 376-D.

As per Sec.358 whenever any person arrested by the police and it appears to the Magistrate that there was no sufficient ground for causing such arrest, the Magistrate may award compensation not exceeding Rs.1000/- to be paid by the person to so arrested. As per Sec.359 if the court convicts the accused in non-cognizable offence, the court in addition to the penalty imposed, order him to pay to the complainant, the whole or in part, the costs incurred by him in the prosecution and in default, the accused shall suffer with simple imprisonment for not exceeding 30 days.

Sec.360 of Code mandates that when any person not under 21 years of age is convicted for fine or imprisonment less than 7 years and a person under 21 years of age, or any woman is convicted for an offence not punishable with death or imprisonment for life and no previous conviction is proved against the offender, if it appears to the court regard being had to the age, character or antecedents of the offender and circumstances in which the offence was committed and it is expedient that the offender should be released on profession of good conduct instead of sentencing him at once direct that he be
released or executing a bond with or without surety. Any person is convicted of theft, misappropriation and cheating for punishable with not more than two years and no previous conviction is proved and the court thinks fit having regard to the age, character, antecedents or physical or mental condition of the offenders and to the trivial nature of the offence or any extenuating circumstances under which the offence was committed, release him after due admonition. As per the authority reported in **AIR 2012 S.C. 1754**, the Lordship elaborately discussed and explained the ambit of Sections 360, 362 of Criminal Procedure Code and Sec.4 of the Probation of Offenders Act, 1958.

The court should not alter the judgment after it has signed its judgment or final order disposing of a case or review the same except to correct a clerical or Arithmetical error. As per authority reported in **1990(2) Crimes 376**, the Lordship held that Criminal Court has no power to review its judgment. As per authority reported in **AIR 2001 S.C. 43**, High Court has no power to review its own judgment except to the extent of correcting clerical or arithmetical errors. As per Sec.363 of Code the copy of judgment to be given immediately after the pronouncement of judgment on free of cost to the accused, after conviction. The certified copy of judgment shall be given to the accused on the application made by him in the language of the court without delay on free of cost. When the accused is sentenced to death by any court and an appeal lies from such judgment as of right, the court shall inform him of the period within which the appeal should be preferred. If any person affected by a judgment or order passed by the criminal court, shall furnish a copy of such judgment, order, any deposition or other part of the record on the application made on payment of prescribed charges. As per Sec.364 where original judgment is recorded in a language different from that of the court and the accused so required a translation thereof into the language of the court shall be added to such record. Finally the Court of Sessions tried the cases, send the copy of finding and sentence to the District Magistrate within whose local jurisdiction the trial was held.

**CONCLUSION:**

The judgment of a Judge means the ability of a judge to make a considerable decision. So, the judge speaks through judgment. The main purpose of the judgment is to communicate to the parties and stake holders, the decision of the court in regard to the litigation. The Criminal Judgment must begin with brief facts of the offence and the manner through which the case brought to the Court. The language of the court must be simple, legible and easily understandable by a common man. The charges framed against the accused and offence shall be for distinct and separate offence. The burden of
proof of guilty of the accused is always on prosecution. The proof of offence against particular accused with regard to particular overt act must be beyond reasonable doubt. The precedents shall be used wherever necessary and which are relevant to the case facts. The essential ingredients that constitute the offence shall be taken into consideration to just arrive conclusion. The property orders shall be noted in the result portion of the judgment. While appreciating the evidence, the court shall be cautious and the oral evidence must be scrutinized with utmost care by taking into consideration of inconsistencies, omissions and contradictions. The findings of the Criminal Court must be with supported reasons. In nutshell every court while rendering the judgments must follow the principles of natural justice.
Section 354 in The Code Of Criminal Procedure, 1973:

354. Language and contents of judgment.

(1) Except as otherwise expressly provided by this Code, every judgment referred to in section 353,-

[a] shall be written in the language of the Court;

[b] shall contain the point or points for determination, the decision thereon and the reasons for the decision;

[c] shall specify the offence (if any) of which, and the section of the Indian Penal Code (45 of 1860) or other law under which, the accused is convicted and the punishment to which he is sentenced;

[d] if it be a judgment of acquittal, shall state the offence of which the accused is acquitted and direct that he be set at liberty.

(2) When the conviction is under the Indian Penal Code (45 of 1860 ), and it is doubtful under which of two sections, or under which Of two parts of the same section, of that Code the offence falls, the Court shall distinctly express the same, and pass judgment in the alternative.

(3) When the conviction is for an offence punishable with death or, in the alternative, with imprisonment for life or imprisonment for a term of years, the judgment shall state the reasons for the sentence awarded, and, in the case of sentence of death, the special reasons for such sentence.

(4) When the conviction is for an offence punishable with imprisonment for a term of one year or more, but the Court imposes a sentence of imprisonment for a term of less than three months, it shall record its reasons for awarding such sentence, unless the sentence is one of imprisonment till the rising of the Court or unless the case was tried summarily under the provisions of this Code.

(5) When any person is sentenced to death, the sentence shall direct that he be hanged by the neck till he is dead.

(6) Every order under section 117 or sub- section (2) of section 138 and every final order made under section 125, section 145 or section 147 shall contain the point or points for determination, the decision thereon and the reasons for the decision.

Judgments in Criminal Cases:-

Section 355 in The Code Of Criminal Procedure, 1973 Metropolitan Magistrate’s judgment. Instead of recording a judgment in the manner
hereinbefore provided, a Metropolitan Magistrate shall record the following particulars, namely:-

(a) the serial number of the case;
(b) the date of the commission of the offence;
(c) the name of the complainant (if any);
(d) the name of the accused person, and his parentage and residence;
(e) the offence complained of or proved;
(f) the plea of the accused and his examination (if any);
(g) the final order;
(h) the date of such order;
(i) in all cases in which an appeal lies from the final order either under section 373 or under sub-section (3) of section 374, a brief statement of the reasons for the decision.

While rending Judgments in Criminal cases, the following are to be observed as required under Section 354 CrPC. The Judgment shall contain the point or points for determination, the decision and the reasons for the decision, the Section of IPC or other law under which the accused is convicted and punishments to which he is sentenced. Separate sentence must be passed by the Court in each proved offence. The Judgment should also indicate (1) whether the sentence to run concurrently or consecutively (2) whether the accused is entitled for set-off or not, the period of detention, if any, undergone by him as under trial. (Sec. 427 and 428 Cr.P.C.). In case of acquittal, the Court shall state the offence of which the accused is acquitted and direct that he be set at liberty.

In the words of Justice S.M.N. Raina in his book Law Judges and Justice would state that in criminal cases the importance of the trial judge is even more than it is in a civil case. Even in cases resulting in conviction, a good deal of importance is attached to the appreciation of evidence by the trial court. A wrong acquittal is as bad as an erroneous conviction. In either case, the interests of the society are adversely affected. There are many cases where if the trial judge acquits the accused his acquittal will not be disturbed by the High Court on the ground that the innocence of the accused having been re-enforced by the judgment of the trial court, there should be strong reasons to come to a different conclusion. If, on the other hand, in the same case the Judge were to convict, the conviction may be upheld. Thus the delicate balance is in the hands of the Magistrate or the trial judge and it is for him to discharge his functions properly so as to advance the interests of justice.

In a criminal case the framing of the charge is most important. The Magistrate or the Judge should see that a proper charge is framed and for this purpose he may consult the draft charges given in the Law of Crimes by Ratanlal. In the matter of offences under other Acts, it should be seen that all
the ingredients of the offences are specified in the charge with all material particulars. Courts should only deal with the subject-matter of the case and issues involved therein. The courts should desist from issuing directions affecting executive or legislative policy, or general directions unconnected with the subject-matter of the case. A court may express its views on a particular issue in appropriate cases only where it is relevant to the subject-matter of the case.

[SOM MITTAL Vs. GOVERNMENT OF KARNATAKA, (2008) 3 SCC 574].

Each Judge has a different way of writing Judgments, and there may be wide variation in style. Each judge has an individual manner of expression. Judgments should be expressed in a language and style which suits the decision-maker. What is more essential is lucidity rather than style. Lucidity should be the prime aim in Judgment writing. Eminent jurists recommend using short sentences, without packing too many ideas in a single sentence. While setting out facts try to maintain a simple straight forward flow. Repetition of words or phrases to be avoided and observe normal rules of grammar. Flowery language and literary allusion may be avoided and such over indulgence may detract from the seriousness of the Judgment. For easier reading, employ the active rather than the passive voice. In writing a Judgment it is often necessary to refer to the Judgments of superior Courts which would aid in your reasoning.

Edit the Judgment:-

It is commonly said that there is no such thing as good writing, there is only good rewriting. Preparing a draft judgment is hard work. But the hardest work begins when the draft Judgment is finished. Good editing ensures that a judgment is lucid, thorough, coherent, concise and has transparent reasoning. It identifies flaws, such as the use of discriminatory language. Editing is a manifold task that should include:-- using a checklist of topics or issues to ensure that the judgment embraces all that it should and that all issues are resolved - checking names, dates, figures and other data for accuracy - eliminating repetition - excluding irrelevant findings of fact - pruning lengthy quotations of law, passages of transcript, or extracts from affidavits or documents tendered in evidence - removing and replacing Latin expressions, jargon or outmoded expressions - eliminating explanations of the obvious - using the active voice rather than the passive voice, wherever possible - simplifying lengthy, complex sentences and adopting short sentences, where appropriate - checking the use of punctuation to avoid ambiguity and facilitate comprehension scrutinizing the length and content of paragraphs. Of course, time is a factor in determining how much editing is possible. But even when a decision must be delivered urgently, some editing is still required, especially to ensure that the decision covers all the issues raised for determination. Where
there is no immediate pressure of time (other than the imperative to deliver a
decision as expeditiously as practicable), a more thorough revision should be
undertaken. The more a judgment is edited or revised, the better it will be,
within reason.

Importance of the personality of a judge:-

It is extremely essential that the Judge should be able to command the
confidence of both the parties and this depends a good deal on the manner he
conducts himself in court while hearing a case. For the Judge, as well as the
lawyer, the technique of handling a case varies according to the nature of the
proceedings before the Court. The Judge must not only possess but exhibit a
keenness to get at the root of the case and a desire to do justice so as to inspire
confidence in the parties that their case is in the hands of an able, impartial
and a wise Judge. A loose remark, here and there, by the Judge may be
justified just to break the monotony of the proceedings and the tense
atmosphere of the court but the Judge should be cautious not to make any
utterance which may be indicative of the Judge having made up his mind or
being inclined in favour of one party or the other. Nothing is more
disheartening to a party and his lawyer than the attitude of a Judge suggesting
a loaded mind.

A Judge has to constantly ask himself whether in giving his judgment he
is doing justice. Therefore, in every case a judge hears, he has to bear in mind
the majesty of the Law, the contribution that it can make to the betterment of
society and the protection it can give to the humble and weak who is pitted
against the rich and the powerful. (M.C.Chagla, Former Chief Justice, Bombay
High Court)

Hon'ble Mr.Justice R.V.Raveendran, Judge, Supreme Court of India in a
recent lecture delivered at the National Judicial Academy, Bhopal, on
"Rendering Judgments – Some Basics" (Decision making & Judgment writing)
has set out elaborately on the topic of the day. The following paragraphs would
be relevant for the Judges assembled here. Cases are not disposable
commodities to be treated as mere statistics. Their purpose is not to provide a
livelihood for lawyers or provide monthly disposal quota to Judges. Cases have
to be decided purely on merits. A Judge should remain impartial. He should
shun bias or prejudice. He should not be affected by pressures – either external
or internal. External pressures are those which lead to bias or prejudice on
account of friendship, hostility, enmity, relationship, caste, community,
religion, political affiliation, or promised or expected financial benefits. Internal
pressures arise on account of a Judge's ideology or philosophy or attitude. A
Judge should not allow these to cloud his judicial impartiality. Many a Judge
whose honesty and integrity are not doubted, give room for being branded as
Judges with recognized disposition or ideology. Depending on his ideology or
leaning, he ends up earning the sobriquet: a "landlord Judge" or a "tenant Judge"; or as a "convicting Judge" or an "acquitting Judge"; or as a "pro-government Judge", or an "anti-establishment Judge"; or as a "pro-rich Judge" or "pro-poor Judge"; or as a "pro-labour Judge" or a "pro-management Judge"; or as a "relief-oriented Judge" or a "technical Judge"; or as a "liberal Judge" or a "negative Judge". Of course each Judge, as a human being, is bound to have convictions, prejudices, notions, philosophies and views which may unconsciously influence and mould his decision and reflect upon the manner in which he administers justice.

When a Judge ceases to have an open and impartial mind, he ceases to be fair and just. In short, he ceases to be a Judge. When a Judge puts on his judicial robes, he should put off not only friendships, relationships, caste, community, religion, political sympathies, but also put off his prejudices, per notions, and personal philosophies. He cannot owe any kind of allegiance to anything other than impartiality, truth and justice. Impartiality is a virtue, which is not easy to achieve, acquire or maintain. It requires consent effort and sacrifice. Integrity is one of the building blocks which makes up impartiality. Litigation is diverse—civil, criminal, family commercial, tort, administrative, constitutional, labour, taxation, etc. Judges will have to adopt different approaches for different types of cases. An understanding of human feelings may be necessary in family disputes. It is better to ask questions, understanding the issue and then decide rather than attempting a decision without fully grasping the issues or the finer nuances of law involved. The object of your questions and observations, of course, should be to elicit relevant clarifications and not to exhibit your knowledge and learning. In dealing with Criminal Cases, [Common sense, logic, respect for moral values and an understanding of human psychology, are necessary for a Judge to render effective justice. Sound common sense, perception as to what is right and wrong, and commitment to justice are the tools that would assist in criminal cases]. The main functions of a reasoned judgment are:(i) to inform the parties (litigants) the reasons for the decision; (ii) to demonstrate fairness and correctness of the decision; (iii) to exclude arbitrariness and bias; and (iv) to ensure that justice is not only done, but also seen to be done. The very fact that a Judge has to give reasons that will have to stand scrutiny by the Bar and the public as also by the higher courts, brings in certain amount of care and caution on the part of the Judge and transparency in decision-making.

Several lengthy judgments which purport to be reasoned judgments but do not contain any reasons. They extract the pleadings, catalogue the documents, refer to the evidence in detail, set out the arguments, and then proceed to, or rather jump to a conclusion or decision, without analysis or reasons for the conclusion. A judgment, howsoever detailed or lengthy, will be unintelligible or
"non-speaking", if it fails to disclose the reasons for the decision. Simple words, short sentences, brief statement of relevant facts, thorough analysis of the evidence, clear enunciation of the legal position, proper application of the law to the facts and grant of appropriate reliefs warranted by the case in clear terms, are the hallmarks of a properly written judgment or order.

The Trial Courts form the base of the judiciary and bulk of judicial work is handled by them. Their importance lies in the fact that it is on their performance that the quality of administration of justice largely depends. Many cases in these courts are of poor litigants. A good deal of responsibility, therefore, lies on the Presiding Judge or Magistrate to ensure that proper material is brought on record which is necessary for arriving at a just conclusion and that the case is handled promptly in such a manner that no litigant suffers on account of poverty or lack of proper legal advice.

The remand period of each accused shall be specifically mentioned in the Judgment. Final order with regard to disposal of case property shall be passed in the Judgment. If case is separated against any of the accused, such order shall be passed in the case separated against the accused. The punishment of each accused shall be specifically mentioned in the Judgment. Findings shall be given on the all the charges framed against the accused. Marshalling of facts, appreciation of evidence with settled law and presumptions if any are important factors in writing Judgment in Criminal case.
Before start writing Judgment the judge must go through the entire record of the case and the citations etc., relied upon by the respective counsels of the parties. The Judge should also search the law applicable to the facts of the case and find out the correct legal position. Thereafter the judge should start writing judgment. The judge should remind that they should not be repetition of the facts, except where necessary while appreciating the evidence of the parties.

Before hearing final argument judge must read the entire case. This helps in controlling lengthy and irrelevant arguments because judge hear other cases in-continuity, there are chances of confusion about the facts and law of the cases and therefore, it is advisable to the judge to note down the important points argued by each counsel. These notes certainly help at the time of preparing judgments by the judge. If the case if fixed for Judgment on a longer date it is always advisable to write judgment in part. This helps in proper appreciation of facts and legal position and also editing the judgment to avoid repetition. Thus, the judgment can be pronounced on the date fixed for this purpose.

The operative portion of the judgment in criminal cases should distinctly show the ultimate finding on each charge. If there are number of charges on the accused or against more accused than one and the case results in acquittal in respect of some charges and conviction in some charges, the acquittal and conviction, with name of individual accused, should be shown separately.

1) **Judgment, its contents, composition and quality on criminal side:**
Of the several functions which the court is called upon to discharge, the most onerous and important one is the writing of judgment. Its significance cannot be over emphasized when it is manifest that the whole edifice of public confidence in courts is built on the quality of Judgment that the courts produce the judgment should, therefore, be a product of clear sustained thinking, sound analysis of facts, application of correct legal principles and condensed common sense and ripe experience of men and matters. It should represent the best that can be drawn from human thoughts and mind on the subject.

The judgment in criminal cases concerned, as it is with life, liberty, honour and property of a citizen, must necessarily be clear and systematic. Sec.367 Criminal Procedure Code, provides inter-alia for the contents of judgment.
A judgment should contain:
1) A concise statement of facts.
2) The point or points for determination,
3) The decision thereon
4) The reasoning for such decision

These are the essentials which the judgments should contain. It is so not only in relation to the judgments of the trial court but also of the appellate court. In deed the judgment of the appellate court must be independent it should stand by itself without being supplementary to the judgment of the trial court. It must contain a careful appraisal of the whole evidence on record and it must show that the appellate court has applied its independent mind to all the circumstances from all aspects. It must be clear that every item of evidence on which the findings of the trial court are based has been carefully scrutinized and weighed.


It is not sufficient if one is conversant with what the requisite contents of a judgment are. It is also necessary that the judge should be able to write good judgment for after all it is the quality of the judgment that is of paramount importance. Its composition is of no less significance. Writing of judgments is an art which has to be cultivated and developed by regular study of judgments of eminent English and Indian Judges. Regular Study helps a good deal. But ultimately the judgment it depends upon individual talent, grasp of facts, command of legal principals, clarity of thoughts, power of expression and natural proclivities of elaboration or condensation. It is not possible to give precise or exact instructions of universal application as to the manner in which the judgment should be composed because the facts of each case coming up for discussion or nervier as a rule of stereo typed. All that need be stressed upon is that the judgments should not be prolics or a mere mechanical reproduction of facts and evidence. I should contain a conscience and precise statements of facts chronologically arranged bringing to the fore the points of determination.

The narrative must be precise and clear the Marshalling of facts should be thorough. Repetition must be avoided so far as it is possible. All that happened at the time of the occurrence and incidents which took place in so far as they are material, should be narrated in their natural sequence. While brevity is a great virtue, clarity of thought and expression should be the watchword. If the sequence is duly observed and facts are logically arranged, the narrative will be precise, clear and impressive.

It will be profitable with the following sequence in writing judgments so far as it is possible, is followed:-
1. The statement of facts.
2. The occurrence and the gist of the offence with small details.
3. Motive forming the background of the offence.
4. First information report, time of its dispatch and receipt.
5. Post mortem or wound certificate if any.
6. Anything worthy to mention with regard to investigation.
7. The plea of the Accused and the defence that is set up.
8. The points for determination.
9. Discussion of the merits of the prosecution evidence.
10. Discussion of the defence evidence if necessary.
11. Conclusion and sentence to be passed.

After narrating the facts as gathered from the prosecution and stating the plea of the accused, the points which require judicial determination should be clearly stated. The weight and value of evidence in support of the prosecution should then be considered and if it makes out of a case, the defence evidence should be discussed. It should be judged whether the defence evidence does or does not rebut the prosecution evidence. All this involves appreciation of evidence both oral and documentary. The function of appreciation of evidence is not an any task. Its technic requires a separate chapter for due consideration. It is sufficient here if it be stated that reproduction of evidence of each witness in the case in the judgment is of no use. The evidence should be discussed and evaluated. Corroboration and contradiction of material facts must necessarily be commented and reasons for believing or disbelieving the evidence must be stated and the findings on the points requiring decision must be recorded. It is of vital importance that the judgment must be temperate and sober. Commenting on the conduct of the parties should not go beyond what is really necessary. Damaging remarks against a witness should not be made without trustworthy proof of the record. Remarks pre-judicial to the character of a person who is neither a party nor the witness in the case should be wholly avoided while coming to a decision various aspects of the matter as may present themselves should be fully discussed.

Just as it is the duty of the criminal court to get to the bottom of a case and see that every scrap of relevant evidence is brought before it so that justice be done, so also it is its duty to test the entire material and the various theories set up and points raised fully and satisfactorily and reach its conclusion. Each point should be dealt with fully before the other is taken up. Findings on the points must be precise and clear. The question of sentence should then be considered and appropriate sentence should be avoided.

The judgment must be comprehensive enough to cover all the aspects in a manner described above. Sometimes, the Magistrates, before considering
whether the prosecution has made out its case, proceed indiscreetly to comment on the witnesses for a defence and discuss the incredibility of the defence witnesses to declare the case of the accused as untrue. On that basis they accept the case set up by the prosecution as true. This approach is wholly wrong and fraught with grave consequences. The legal presumption about the accused is that he is innocent till the guilt is brought home to him by positive and credible evidence. The onus of proving all that he is necessary for the establishment of guilt is wholly on the prosecution.

If the prosecution evidence is doubtful or unsatisfactory it cannot gain any strength from the weakness in defence as it should stand are fall on its own strength. If the guilt is not proved beyond reasonable doubt on the basis of the prosecution evidence, the accused is entitled to the benefit of doubt and consequent acquittal. The defence evidence has to be discussed only if the prosecution has discharged the onus of proving the guilt and not otherwise. Of course if the accused pleads the right of private defence or any other general or special exceptions under the penal law and the facts alleged by the prosecution are not disputed, it may not be necessary to discuss at length the prosecution evidence first.

Something however, must needs be said also as to the necessity of having a good command of law and legal principles and requisite ability of correct application thereof the facts of the case as that contributes a good deal to the quality of judgment. A thorough knowledge substantive and procedural law is imperative for a good judgment. Its right application to the facts is no less importance. Obviously enough land less the preceding officer is sure of law before he proceeds to apply it to the facts, he cannot hope to reach the correct results.

The judge has to be bear well in mind the substantive and procedural laws and rules of evidence while dealing with a cases before him. He has of course to be fully conversant with statute law. So also, he as to be familiar with the case law on the subject. But the basic legal principles have to be necessarily assimilated by him. Or else, it will not be possible for him to proceed further and discharge his functions efficiently. Besides, time and again he has to refer to sections of the law and study them very carefully. Commentaries will be helpful but he should know how to use them. Whether at the time of framing charge or awarding punishment, he should keep the relevant sections always in view to avoid possible mistake and should in no circumstances exclusively rely on memory. There may be a few other precautions which the Magistrate should take to impart fullness and soundness to his judgment. It is not necessary to delate on this aspect any further as any amount of instruction given cannot be exhaustive and much depends on the natural capabilities of the presiding officer.
CONCLUSION:
As regards the recording of findings it is necessary that in the judgments findings on all charges must be clearly given. They should be record indistinct and definite terms so as to offered no room for doubt as to what they has been committed. Where there are several accused the case of leach accused should be dealt with in sufficient detail and the decision with regard to each reasons therefor should be given. The names of the accused should be set out in the judgment in cases of conviction the judgment must be specify the offence of which ;and the sections of law under which the accused is convicted and also the punishment inflicted and each. In case the previous convictions are irrelevant and have been proved they should be duly stated with the details of debts and extent of punishment. The reasons for the particular punishment also must ;be stated if the conviction is under the Indian Penal Code and it is doubtful under which of the two section or under which of the two parts of the same section of the court the offence falls, the court must distinctly express the same and pass judgment in the alternative. If the judgment is one of acquittal the judgment shall state the offences of which the Accused is acquitted.

These in short are the various features which require mentioned in connection with the judgment in criminal cases.
Introduction:

A Judgment may be defined as a reasoned pronouncement by a Judge on a disputed legal question which has been argued before him. Legally Section 2 (9) of Civil Procedure Code, 1908 defines the word Judgment. However this exact definition is absent in Criminal Procedure Code. However chapter XXVII of the code of criminal procedure 1973 provides THE JUDGMENT. Sec.353 to 365 of chapter XXVII of Code of Criminal Procedure Code deals with THE JUDGMENT.

Sec.353 provides the manner of pronouncement of Judgment by the presiding officer U/sec.354 provides the language and contents of the judgment and Sec.356 provides the care taken while notifying address previously connected offence and Sec.355 provides order to take compensation and Sec.357 A provides victim compensation scheme. Sec.357 B provides compensation in addition to fine U?Sec.326 A or U/sec.376 D of IPC and U/sec.357 C prescribes the treatment of victims U/sec.328 provides compensation to persons groundlessly arrested and Sec.359 order to pay costs in non cognizable cases and U/sec.350 order to realize on probation of good conduct or after admonition and U/sec.359 provides special reasons to be recorded in certain cases and Sec362 provides court not to alter Judgment and Sec.363 provides copy of Judgment to be given to the accused and other persons and Sec.364 provides Judgment when to be translated and Sec.355 provides court of secession to send copy of fining and sentence to District Magistrate.

A Judge constantly strives to write better, clearer Judgments. But how to do it? The first matter to consider is the purpose of the Judgment. There are four purposes for any judgment that is written.

1. To clarify own thoughts.
2. To explain decision to the parties.
3. To communicate the reasons for the decision to the public.
4. To provide reasons for any appeal court to consider.

The prerequisite for a good judgment is a good hearing. The process of reasoning by which the Court comes to the ultimate conclusion should be reflected clearly in a Judgment. The reasons given by a Judge in a Judgment indicates the working of his/her mind, approach, his/her grasp of the question of fact and Law involved in the case and the depth of his knowledge of Law. In short, a Judgment
reflects the personality of the Judge and, therefore, it is necessary that it should be written with care and after mature reflection. In the words of Chief Justice Sabyasachi Mukharji.

“The supreme requirement of a good judgment is reason. Judgment is of value on the strength of its reason. The weight of the judgment, its binding character or its persuasive character depends on the presentation and articulation of reasons. Reason, therefore, is the sole and spirit of a good judgment.”

The following paragraphs in a lecture delivered at the National Judicial Academy Bhopal, on “Rendering Judgments – Some Basics” (Decision making & Judgment writing) by Hon’ble Sri Justice R.V. Raveendran, Former Judge, Supreme Court of India, would be relevant on this topic.

“. Cases are not disposable commodities to be treated as mere statistics. Their purpose is not to provide a livelihood for lawyers or provide monthly disposal quota to judges. Cases have to be decided purely on merits. A Judge should remain impartial. He should shun bias or prejudice. He should not be affected by pressures – either external or internal. External pressures are those which lead to bias or prejudice on account of friendship, hostility, enmity, relationship, caste, community, religion, political affiliation, or promised or expected financial benefits. Internal pressures arise on account of a Judge’s ideology or philosophy or attitude. A Judge should not allow these to cloud his judicial impartiality. Many a Judge whose honesty and integrity are not doubted, give room for being branded as judges with recognised disposition or ideology. Depending on his ideology or leaning, he ends up earning the sobriquet; a “landlord Judge” or a “tenant Judge”; or as a “convicting Judge” or an “acquitting Judge”; or as a “pro-government Judge”, or an “anti-establishment Judge”; or as a “pro-rich Judge” or “pro-poor Judge”; or as a “pro-labour Judge” or a “pro-management Judge”; or as a “relief-oriented Judge” or a “technical Judge”; or as a “liberal Judge” OR A “NEGATIVE Judge”. Of course each Judge, as a human being, is bound to have convictions, prejudices, notions, philosophies and views which may unconsciously influence and mould his decision and reflect upon the manner in which he administers justice. When a Judge to have an open and impartial mind, he ceases to be fair and just. In short, he ceases to be a judge. When a judge puts on his judicial robes, he should put off not only friendships, relationships, caste, community, religion, political sympathies, but also put off his prejudices, per notions, and personal philosophies. He cannot owe any kind of allegiance to anything other than impartiality, truth and justice. Impartiality is a virtue, which is not easy to achieve, acquire or maintain. It requires consent effort and sacrifice. Integrity is one of the building blocks
which makes up impartiality. Litigation is diverse—civil, criminal, family commercial, tort, administrative, constitutional, labour, taxation, etc. Judges will have to adopt different approaches for different types of cases. An understanding of human feelings may be necessary in family disputes.

It is better to ask questions, understanding the issue and then decide rather than attempting a decision without fully grasping the issues or the finer nuances of law involved. The object of your questions and observations, of course, should be to elicit relevant clarifications and not to exhibit your knowledge and learning.

In dealing with Criminal Cases, [Common sense, logic, respect for moral values and an understanding of human psychology, are necessary for a judge to render effective justice. Sound common sense, perception as to what is right and wrong, and commitment to justice are the tools that would assist in criminal cases].

The main functions of a reasoned judgment are: (i) to inform the parties (litigants) the reasons for the decision; (ii) to demonstrate fairness and correctness of the decision; (iii) to exclude arbitrariness and bias; and (iv) to ensure that justice is not only done, but also seen to be done. The very fact that a judge has to give reasons that he have to stand scrutiny by BAR and the public as also by the higher courts, brings certain amount of care cautions on the part of the judge and transparency in decision-making.

Several lengthy judgments which purport to be reasoned judgments but do not contain any reasons. They extract the pleadings, catalogue the documents, referred to the evidence in detail, set out the arguments, and then proceed to, or rather than to jump a conclusion or decision, without analysis or reasons for the conclusion. A judgment, how so ever detailed or lengthy, will be unintellegable or –non speaking : if it fails to disclose the reasons for the decision.

Simple words, short sentences, brief statements of relevant facts through analysis of the evidence, clear in enunciation of the legal position, proper application of the law to the facts and grant of appropriate reliefs warranted by the case in clear terms, are the hallmarks of a properly written judgments or order.

**General Observations:**

The trial courts form the base of the judiciary and bulk of judicial work is handled by them. Their importance lies in the fact that it is on their performance that the quality of administration of justice largely depends. Many cases in these courts are of poor litigants. A good deal of reasonability, therefore, lies on the Presiding Judge or Magistrate to ensure that proper".
It was observed by the Hon’ble Supreme Court, in “M/s Hindustan Times Ltd., Vs Union of India and others” that obligation to give reasons introduces clarity and excludes or at any rate minimizes arbitrariness and the Higher the chances of Forum can test the correctness of those reasons. In this case the Hon’ble Court referred the following article on writing judgments.

In an article “On Writing Judgments” Justice Michael Kirby of Australia [(1990) (Vol.64. Australian Law Journal p.691)] has approached the problem from the point of view of the litigant, the legal profession, the subordinate Courts/tribunals, the brother Judges and the judges” own conscience. To the litigant, the duty of the Judge is to uphold his own integrity and let the losing party know why he lost the case. The legal profession is entitled to have it demonstrated that the Judge had the correct principles in mind, had properly applied them and is entitled to examine the body of the judgment for the learning and precedent that they provide and for the reassurance of the quality of the judiciary which is still the centre-piece of our administration of justice. It does not take long for the profession to come to know, including through the written pages of published judgments, the lazy judge, the judge prone to errors of fact etc. The reputational considerations are important for the exercise of appellate rights, for the judges” own self-discipline for attempts at improvement and the maintenance of the integrity and quality of our judiciary. From the point of view of other Judges, the benefit that accrues to the lower heirachy of Judges and tribunals is of utmost importance. Justice Asprey of Australia had even said in Pettit Vs Dankley [(1971 (1) NSWLR 376 (CA)] that the failure of a Court to give reasons is an encroachment upon the right of appeal given to a litigant. In our view, the satisfaction which a reasoned Judgment gives to the losing party or his lawyer is the test of a good Judgment. Disposal of cases is no doubt important but quality of the judgment is equally, if not more, important. There is no point in shifting the burden to the higher Court either to support the judgment by reasons or to consider the evidence or law for the first time to see if the judgment needs a reversal.

**JUDGMENT IN CRIMINAL CASES** :

While rendering Judgment’s in criminal cases, the following are to be observed as required U/sec.354 Cr.P.C. The Judgment should contain the point(s) for determination, the decision and the reason for the decision, the section of IPC or other Law under which the accused is to be convicted or acquitted, and punishments to which he or she is sentenced (On convection). The Judgment should also indicate:-

1. Whether the sentence is run concurrently or consecutively.
2. Whether the accused is entitled for set-off or not, the period of detention if any,
under gone by him/her as under trial. In case of acquittal the Judgment should state the offence of which the accused is acquitted and direct that he or she be set at liberty.

In a criminal case the framing of charge is most important. The Magistrate or the Judge should see that a proper charge is framed. In the matter of offenses under other Acts, it should be seen that all the ingredients of the offense are specified in the charge with all material particulars.

Good Hearing:

A good hearing will enable the judge to command the confidence of both parties. Thus “Justice is not only done, but it is seen to be manifestly done.” While hearing the case it is required to avoid to make any utterance which may indicate that the Judge having made up his mind or being inclined in favour of a particular party.

If the record is gone through not with a view to decision making before the arguments of both parties heard, it will be easy for clarification on the factual discrepancies and get the requisite material at the time of hearing the arguments to enable the judge to prepare the judgment easily, this process making the judge “a participating judge” which makes the judge comfortable at the time of hearing the case.

Notes:

Notes prepared with the manner in which it is comfortable during the course of arguments will be of assistance while preparing judgment.

Factors while writing the judgment

In a civil case the court decides the case on a balance of probabilities. It is sufficient that the court is satisfied on a balance of probabilities that the party which bore the onus of proof he/she told the truth version is acceptable. To the and that he/her contrary in criminal cases, the guilt of the accused must be proved beyond reasonable doubt where there is some doubt which is reasonable but not speculative such doubt must be for the benefit of the accused.

The important purpose to prepare a good judgment is to afford the parties the opportunity to assess the merits of an appeal and it will assure the loosing party that he/she had a proper hearing before the Court, and the evidence has been considered and the legal admissions presented objectively and that the ultimate decision is therefore rational.

When the judgment is prepared in a structured manner it will be easy for the readers of the judgment to understand the decision.

Structure of a judgment

A judgment must be clear, precise and say everything that needs to be said as to why a decision was reached and no more. The structure of judgment will vary based on the preferences of the judge. But all judgments must contain
the information in one form or another regarding introduction, statement of
issues, findings of fact, legal analysis and conclusion. I discuss them briefly
thus:

**Recital of facts:**

The undisputed facts have to be set out first to be convenient. Facts shall
be written in chronological order which will be easiest way for the reader to
understand facts in the order they occurred. The facts which are part of the
essential reasoning process of the judge’s decision should be indicated and
recorded.

**Discussion of facts**

Facts must be discussed accurately, precisely and impartially as they are
an essential part of the decision making and writing process. A judgment will
begin with clear recital of the facts of the case. If the relevant facts that effect
the analysis and decision of the case are identified, describing the facts in
detail and verbatim repetition can be avoided. Further it makes it easier to
analyze and apply the law and to reach a conclusion.

**Finding of facts**

When factual disputes arise, it is necessary to look at both sides’ facts to
find the best and most complete version of the facts. When making findings on
disputed facts, it must briefly be explained why, based on weighing the
evidence, they regard certain disputed facts as proven. The same applies for
findings of credibility. On hearing conflicting testimony the determination be
made with regard to which testimony and witness is credible and why. In doing
so, a clear explanation of the findings should be offered.

**Appreciation of evidence:**

The relevant evidence must be narrated in brief about the purpose for
which such evidence was let in. The documents admitted in evidence after they
were proved, must find their mention along with oral evidence by which the
said documents were proved. It is also necessary to state the contentions of the
counsels for both parties on point in dispute except which are frivolous. It is
always better to discuss the evidence before giving an opinion to rely upon it.

**Finding on credibility of witnesses**

Finding on credibility of the factual witnesses depends on

i) the veracity of the witness which depends upon the internal
contradictions of the witness in his evidence.

ii) external contradictions with that was pleaded or put on his evidence.

iii) the probability or improbability of particular aspects of version of the
witness.

**For assessment of credibility of witness:**

i) The probability or improbability of the testimony to be seen against the
totality of the case.

ii) The relevant contradictions in the evidence of the witness to be seen.
Application of the law

The judgment must state without hesitation the rule on which the decision depends. Once the basic facts and law have been decided the answer will be clear in many cases. While referring to case law, looking at foot notes only and throw cases into a judgment without reading them is avoidable. It is important to read the case and make sure that it is on point. It should be demonstrated how the law supports the conclusion.

Reasons for decisions

When clear reasons for the decisions are provided it demonstrates to both sides that their positions were considered, why some facts are more important than others, and how the court applied the law. The judgment must state the rule and support it by citing authorities, but without citing an excessive number of cases.

There is no rigid rule, as to how a finding to be recorded. It is not sufficient to say that the evidence was believed or agreed with the arguments of the counsel. Reasons must be given for such belief. The operative portion must clearly be written. The judgment must give clear and precise direction and the manner which such directions have to be obeyed. The operative portion of the judgment should as far as possible self executing and self contained.

In “Assistant Commissioner Vs. M/s Shukla and brothers” in Civil Appeal No.16466 of 2009 on 15-4-2010 the Hon’ble Supreme Court observed that at the cost of repetition, we may notice, that this court has consistently taken the view that recording of reasons is an essential feature of dispensation of justice. A litigant who approaches the Court with any grievance in accordance with law is entitled to know the reason for grant or rejection of his prayer. Reasons are the soul of orders. Non recording of reasons could lead to dual infirmities; Firstly, it may cause prejudice to the effected party and Secondly, more particularly hamper the proper administration of justice. These principles are not applicable to administrative or executive actions, but they apply with equal force and, in fact, with a grater decree of precision to judicial pronouncements. A judgment without reasons causes prejudice to the person against whom it is pronounced, as that litigant is unable to know the14 ground which weighed the court in rejecting his claim and also causes impediments in his taking adequate and appropriate grounds before the higher Court in the event of challenge to that judgment.

Style of judgment

Style in writing a judgment refers mainly to the use of correct rules of grammar, syntax and punctuation. It also deals with principles of composition matter of form, words and expression. The following style may be observed while writing a judgment
a) **Repetition** of similar word the use of which is not necessary.

b) **Be precise:** The judgment to be precise and to the point, to the extent of possible to avoid confusion on the part of the reader in order to grasp the outcome of the judgment

c) Use of active voice

d) Avoid tendency of using difficult vocabulary. Plain and simple language to be used.

There is a golden saying that “judgment delayed is judgment denied”. It is perfectly understandable that the litigants expect to know of the result of their cases as soon as practically possible. Depending on several factors including time, nature of the evidence let in, and the complexity of the matter both in terms of facts and applicability of law and the “importance and urgency of the case, one is expected to deliver a judgment soon after the case is finalized. This requires some skills to be able to express oneself clearly coherently and correctly, the ability to narrate thoughts and facts logically and rationally one must be able to articulate.

**CONCLUSION:-**

A Judge renders Justice through his decisions. The decision making culminating in the Judgment is the heart and soul of the Judicial Process. Good Judgments enhance the prestige of the Judge and eventually the prestige of the Judiciary. Bad Judgments, obviously, have the opposite effect. Therefore, there is a need for the Judges to make constant and continuance effort to render good Judgments.

Art of writing a Judgment depends on the knowledge, proficiency and attitude of the Judge. Writing a good quality Judgment is an on going challenge. What is the most important component of good Judgment writing is clarity. If a Judge Ideas are clear then he/she able to express them clearly. Clear thinking is the key to clear writing.
Introduction: A Judgment may be defined as a reasoned pronouncement by a judge on a disputed legal question which has been argued before him. The judgment in criminal cases as it is, with life, liberty, honour and property of a citizen, must necessarily be clear and systematic. It should contain a concise and precise statement of facts chronologically placed bringing to the fore points for determination. The narrative must be precise and clear. The Marshalling of facts should be complete. Repetition must be avoided so far as it is possible.

The relevant provisions: Sec 353 to 357, 357-A and 360 Cr.P.C, Rule 65 to 71 of Criminal Rules of Practice and Provisions of PO Act. Chapter XXVII of the Code of Criminal Procedure, 1973 provides for the Judgment. Section 353 requires the judgment in every trial to be pronounced in open Court immediately after the termination of the trial, or at some subsequent time of which notice shall be given to the parties or their pleaders. The judgment as provided in Section 354, is to be written in the language of the Court, and shall contain the point or points for determination, the decision thereon and the reasons for the decision. The section further provides that the judgment shall specify the offence (if any) of which, and the section of IPC, or other law under it, accused is convicted and punishment to which he is sentenced. If the judgment is of acquittal it shall state the offence of which the accused is acquitted and direct that he be set at liberty. In case of conviction for an offence punishable with death or in the alternative with imprisonment for life, the judgment has to state the reasons for sentence awarded and special reasons for death sentence. In case of conviction with imprisonment for a term of one year or more, a shorter term of less than three months, also requires the Court to record reasons for awarding such sentence unless the sentence is one of imprisonment, till the rising of the Court or unless the case was tried summarily under the provisions of the Code. 6. For orders under Section 117 (for keeping peace and for good behaviour), Section 138(2) (confirming order for removal of nuisance), Section 125 (for maintenance) and Section 145 or 147 (disputes as to immovable properties), the Code provides in sub-section (6) that order shall contain the point or points for determination, the decision thereon and the reasons for the decision. Section 355 provides for a summary method of writing judgment by Metropolitan Magistrate, giving only particulars regarding the case, name, parentage and residence of the accused and complainant, the offence complained of or proved; plea of the accused and his examination (if any); the final order and the date of order, and where appeal lies, a brief statement of the reasons for the decision. The order to pay
compensation where the Court imposes sentence or fine; order of compensation for groundless arrest and the order to pay cost in non-cognizable cases, may be made with the judgment under Sections 357, 358 and 359 of the Code. Section 360 provides for order to release on probation and special reasons in certain cases where the Court deals with accused person under Section 360 or Probation of Offenders Act, 1958. 7. The Code of Civil Procedure, 1908 and Code of Criminal Procedure, 1973 have provided sufficient guidelines for writing judgment. These, however, are not exhaustive. There is a wide discretion left with the Judges to choose their style of writing, language, manner of statement of facts, discussion of evidence and reasons for the decision. 8. The judgment writing consumes the major part of Judge's work. Taking into account the mounting arrears, and the number of cases in the daily cause list, the burden in judgment writing sometimes becomes intolerable. The Judges by their experience, find methods to reduce this burden, by writing brief opinions. The judgment, however should serve the requirement of law without compromising with the quality. While rendering judgments in criminal cases, the following are to be observed as required under Section 354 Cr.PC.

1. The judgment should contain the point(s) for determination, the decision and the reasons for the decision, the Section of IPC or other law under which the accused is to be convicted or acquitted, and punishments to which he/she is sentenced (on conviction). The judgment should also indicate: (1) whether the sentence is to run concurrently or consecutively; (2) whether the accused is entitled for set-off or not; the period of detention, if any, undergone by him/her as under trial (Sec. 427 and 428 Cr.PC). In case of acquittal, the Judge should state the offence of which the accused is acquitted and direct that he/she be set at liberty. In a criminal case the framing of the charge is most important. The Magistrate or the Judge should see that a proper charge is framed. In the matter of offences under other Acts, it should be seen that all the ingredients of the offence are specified in the charge with all material particulars.

2. OBJECT OF REASONING The main functions of a reasoned judgment are: (i) to inform the parties(litigants) the reasons for the decision; (ii) to show fairness and correctness of the decision; (iii) to exclude arbitrariness and bias; (iv) to ensure that justice is not only done but also seen to be done and (v) to facilitate the higher forums of appeal to appreciate/examine the issues involved in any case more appropriately. The very fact that a judge has to give reasons that will have to stand scrutiny by the Bar and the public as also by the higher courts, brings in certain amount of care and caution on the part of the judge and transparency in decision making. Judgment writing requires skills of narration. After giving facts and discussing admissible and
relevant evidence a judge is required to give reasons for deciding the charge framed by him. The reasons convey the judicial ideas in words and sentences. The reasons convey the thoughts of a judge and are part of judicial exposition, explanation and persuasion. There is a difference between giving reasons and reasoning, which may ultimately lead to a decision by a judge on the charge or charges before him. The process adopted by a judge in arriving at a decision through proper reasoning, tests a judge of his ability and integrity.

3. The ingredients of a judgment need to be a concise statement of the case, the points for determination, the decision thereon, and the reasons for such decision. It should be a self-contained document from which it should appear as to what the facts of the case were and what was the controversy which was tried to be settled by the court and in what manner. The process of reasoning by which the court came to the ultimate conclusion and decided case should be reflected clearly in the judgment.

4. A judgment is not written only for the benefit of the parties. It is also written for benefit of legal profession, other judges and appellate Courts. The losing party is the primary focus of concern. The winner is not much interested in the reasons for success, as he is convinced of the morality of the cause. The looser, however, in the expensive litigation is entitled to have a outspoken explanation of the reasons for the decision. It is not only for exercise of any appellate right but also to uphold the intellectual integrity of the system of law, impartiality and logical reasoning. The lawyer is interested in the judgment as he understands the analysis and expositions of legal precedents and principles. The lawyers also examine the judgments for learning they provide, and for the reassurance of the quality of judiciary.

6. The Judge must state the facts explicitly and consciously as they are found and the reasons for the decision.

7. The judgment writing provides opportunities for judicial officers to demonstrate his own ability and his worthiness to be a participant in the high tradition of moral integrity and social utility.

8. Before writing a judgment a Judge must remember that he is performing a public act of communicating his opinion on the charge or penal sections brought before him and after the trial by observing fair procedures. He is required to tell the parties of the decision, on the facts brought before him, with application of sound principles of law, his decision, and what the parties are supposed to do as a necessary consequent to the judgment or to appeal against it. It is basically a communication to the parties coming before him for a decision.

9. A judgment must begin with clear recital of facts of the case and the manner in which the case has been brought to the Court. A Judge must have
essential facts in mind, and its narration should be without any mistake. The facts must come from the record and not from the abstract and briefs without any partiality or colour to its narration.

10. In criminal cases, charges framed by the Court lead to the trial. The judgment must quote the issues/or charges as the case may be immediately after the narration of facts. It is always feasible to decide preliminary issues like jurisdiction of Court before going into the merits of the case.

11. The judge must give the details of the evidence led before it. However, only the relevant evidence must be narrated and that too very briefly giving the purpose for such evidence was led. The documents admitted in evidence after they are proved on record must find their mention along with oral evidence by which they were proved. A brief narration, however, will suffice if it is precise and is clearly stated.

12. Before deciding an issue or recording finding on a charge, the relevant evidence must be discussed. Every Judge has his own style of discussing the evidence. It is, however, always better to discuss the evidence before giving an opinion to rely upon it.

13. The soul of a judgment are the reasons for arriving at the findings. These are also called the opinion of a Judge. There is no rigid rule, as to how a finding may be recorded. The Judge, however, should give his reasons. It is not sufficient to say that he believes the evidence or agrees with the argument. The Judge must give his reasons for such belief and agreement.

An elaborate argument does not always require elaborate answer.

Conclusion:— Cases have to be decided purely on merits. A Judge should remain impartial. He should avoid bias or prejudice. He should not be affected by pressures either external or internal. The judgment in criminal cases as it is, with life, liberty, honour and property of a citizen, must necessarily be clear and systematic. It should contain a concise and precise statement of facts chronologically placed bringing to the fore points for determination. The narrative must be precise and clear. The Marshalling of facts should be complete. Repetition must be avoided so far as it is possible.
Writing of a Judgment is an art, clarity is its colour and brevity is its attraction. The Judgment is the final culmination of a long trial in a Criminal Case. It is based on Facts, Rule of Evidence and Law. The Rule of Evidence is based on Common Sense, Natural Events, Human Conduct, Probabilities and Improbabilities. Facts are necessarily to be Proved, appreciated and accepted by the Court before the verdict. Therefore, a Good Judgment requires a skill of appreciating evidence. A Judgment, which not only reflect the conscience of a Judge who delivers it, but also evidences his impartiality, integrity, honesty and standards of ethics, that he maintains. Judgment writing is a skill that can be learned, Practiced, improved and refined. Litigants look forward to just, fair and quality of justice by way of Judgments. Therefore, Judges need to acquire various skills, equip knowledge in Law, having broad idea about constitution and society and having grip on facts and on Law in a particular case to write good Judgments. Rendering a Judgment has two parts, the first part is arriving at a decision and the second part is giving expression to such decision in the form of an opinion supported by reasons. Rendering Judgments is deciding the guilt or innocence of an accused. In other words, it deciding the fate of persons. Good Judgments enhance the prestige of the Judge and eventually the prestige of the Judiciary. But, bad Judgments, obviously, have the opposite effect. Pluto said that knowledge, integrity, experience and wisdom lead to a correct and just decision.

In Criminal cases the decision making process starts from the stage of trial. The Judges faces several obstacles in arriving at a fair decision. He has to face many a witness who freely tells the truth outside the Court, but lies when he steps into witness box, many a Police Officer who adopts third degree methods instead of scientific investigation, many a false case fabricated to settle scores, and many a Prosecutor who does not present the evidence properly or leaves loopholes for the accused to escape. Apart from defective investigations, slipshod prosecutions, manipulative defences, he has to deal with rich and powerful accused trying their best to delay the trial until all or some of material witnesses are pressurized, persuaded, purchased or won over, to become hostile. It is in this difficult terrain that a Judge is required to arrive at the truth and render justice. Sound common sense, perception of right and wrong, and commitment to justice are the tools which require to be constantly used in Criminal cases.
The main functions of a reasoned Judgment are: (i) to inform the litigant the reasons for the decision, (ii) to demonstrate fairness and correctness of the decision, (iii) to exclude arbitrariness and bias, (iv) to ensure that Justice is not only done but also seem to be done, and (v) to enable the Appellate/Revisional Court to pronounce upon the correctness of the decision. The very fact that a Judge has to give reasons that will have to stand scrutiny by the Bar and the Public as also by the higher Courts, brings in certain amount of care and caution on the part of the Judge and transparency in decision making. Unless the evidence placed by the parties and the contentions urged by them are considered and dealt with in the Judgment, the litigant and the world at large will not know that the decision is not a result of any prejudice or ulterior motive, but is based purely on the facts and Law.

THE ESSENTIAL ELEMENTS OF A JUDGMENT

A Judgment is the result of application of law to the facts of a given case. It is an expression of the ultimate opinion of the Judge which he renders after due consideration of evidence and arguments advanced before him/her. It is intended to put a final end to the controversy involved in the matter, so that the dispute brought before the Court by the parties is set at rest. Justice ought to be timely delivered, but at the same time, the Judgments rendered by a Court, are the means for delivery of justice, should be framed in the best possible manner, is the concern of each one of us. Whatever findings are reached by the Judge at the end of the Proceedings of a criminal case trial, appeal or revision or any other miscellaneous Proceedings within the frame work of Law is categorized as a Judgment. Every Judge would have his own style of expressing himself/herself. They should however briefly know what are the essential requirements of a Good Judgment writing, some of which are as under.

(i) BEGINNING OF THE JUDGMENT

A Judgment, at the top of it, should always contain the name of the Court, title and number of the case, which is being decided and also the name and designation of the Judge concerned. This is necessary so that it is known as to Judgment pertains to which matter and has been decided by which Court and Judge. It should also contain the date of delivery of the Judgment.

(ii) OPENING OF THE JUDGMENT
A Judgment should begin with brief introduction of the case history such as what is its nature, whether Civil or Criminal etc. What is its stage, whether trial of a criminal case, an appeal or revision and if trial whether regular or summary or of a miscellaneous nature. Case of the Prosecution should be briefly noted in the first instance with reference to the accusation followed by such similar narrations of the case of the defence. In doing so, efforts of the Presiding Officer should be to notice every relevant fact, but at the same time, there should be no repetition and unnecessary facts should be omitted.

(iii) POINTS FOR DETERMINATION

The Presiding Officer should then proceed to notice charges and in other matters, the points for determination within the periphery of which the evidence led by the parties can be marshaled and sifted and the arguments of their counsel examined. Section 354 of the Code of Criminal Procedure provides that the Judgment should contain points for determination for decision and the reasons for such a decision. Framing of Charges in a Criminal Trial are the requirements of the Law, but formulating the points for determination in other matters also helps the Court to remain focused on the questions of Law and facts which it is called upon to decide. In criminal matters the Court will frame the “points for determination” while dictating Judgment. In Velayudhan Vs. State of Kerala reported in 1994 (1) ALT (Crl.) 112, wherein it was held that - the Judgment shall contain points for determination and reasons for decision on each point must be considered separately as far as possible. Care should be taken that no material point on fact or Law has been overlooked. The entire case depends on the Charges. Our appreciation of the evidence must always be on Charges. Essential elements that constitute a crime charged are to be considered. Generally, every crime except for those crimes of strict liability, have elements for both the mens rea and actus rea. Ingredients should be stated clearly and full resolved one by one in logical order to ensure the Judgment flows.

(iv) REFERENCE TO THE EVIDENCE: BOTH ORAL AND DOCUMENTARY

Evidence that is led in the matter may consist of both, oral as well as documentary. While oral evidence of the witnesses is noticed with reference to the number of the witnesses such as PW.1 or DW.1 etc., the
documentary evidence likewise is mentioned with reference to the number of documents as they are exhibited such as Ex.P.1 or Ex.D1. A reference to the witnesses is some times made by names and some times by numbers, which is as confusing as it is annoying. The desirable course, therefore, would be to refer them as far as possible by names and to mention the numbers in a bracket. The documents should be referred to by the exhibit numbers. The property in Criminal cases should be referred to by their article numbers, such as MO.1. Thus there should be some method or consistency while referring to the witnesses, documents and the articles. So also the reference to reported decision or precedents should be made by names of the parties, volumes and the page. Brief reference to the statement of number of witnesses recorded on either side and documents exhibited by both the parties may not be out of order.

THE DECISION ON POINTS FORMULATED

While appreciating the evidence of a witness, the approach must be whether the evidence of witness read as a whole appears to have a ring of truth. Once that impression is found, it is undoubtedly necessary for the Court to scrutinize the evidence more particularly keeping in view the deficiencies, drawbacks and infirmities pointed out in the evidence as a whole and evaluate them to find out whether it is against the general tenor of the evidence and whether the earlier evaluation of the evidence is shaken as to render it unworthy of belief. The Court would be required to analyze the evidence of related witnesses and those witnesses who are inimically disposed towards the party. After careful analysis and scrutiny of their evidence, the version given by the witnesses appears to be clear, cogent and credible, there is no reason to discard the same.

The Presiding Officer may thereafter proceed to decide the points for determination, in the Order they are framed, findings should be recorded charge wise. The Presiding Officer should discuss the arguments of each party with reference to their evidence relevant to the point in the question. Evidence of each of the point should be sifted in the context of the arguments raised. The Presiding Officer should record his findings on each of the such Charges, by supplying his own reasons and giving logic for his doing so and not just by accepting the case of one party or rejecting that of the other. Findings on each of the points should be recorded in such a manner that they remain cohesive and linked to each other. The Judgment should be reasoned and speaking one, but at the same time, it should not be unnecessarily longish. Practical difficulties and ground realities must be taken into consideration by appreciating the evidence. An important aspect in writing the Judgment is to
have correct understanding of the Law. The true legal position has to be kept in view while weighing the evidence do not make unnecessary comments against anyone which comments are unwarranted. The Presiding Officer must have a thorough knowledge of the procedural Laws, Evidence Act and also about the substantive Laws. A proper application of legal principles to the factual findings to come to a correct conclusion or decision in the form of Judgment is also necessary.

What is required in the discussion part is marshaling of evidence. The discussion part of the Judgment should be in the form of opinion of the Judge, not by mere narrating deposition of each and every witness, but marshaling of evidence. There may be a doubt what is the meaning of marshaling. Marshaling means grouping the point. The conclusion must be based culminated fact of the material and relevant evidence and having bearing of probabilities. Essentials of circumstantial evidence to prove any offence, those are (i) Irrefutable circumstance i.e., circumstances of conclusive nature and tendency must be established from each conclusion are to be drawn, (ii) All facts must be consistent with the hypothesis of the guilt of the accused and (iii) The circumstances should, to a moral certainty actually exclude every hypothesis, but one proposed to be proved.

It is well settled that cumulative effect of the circumstances much be such as negative the answers of the accused, bring offence home beyond all reasonable doubt. The answer for the meaning for the circumstantial evidence is nothing but a legal presumption referred in various enactments including the Indian Evidence Act. The prosecution, in a Criminal case, has to prove the guilt of the accused beyond reasonable doubt. It is difficult to define the expression “reasonable doubt”. All that can be said is that is connotes that degree of doubt which would prevent a reasonable and just man from coming to a conclusion of guilt. Direct evidence may suffer from infirmity or testimony. Likewise, circumstantial evidence is prove to suffer not only from this infirmity, but also from infirmity of inferences drawn by a Judge. In believing or disbelieving the evidence and in drawing inferences, as Judge, therefore has to act on his reason in conformity with his knowledge, observations and worldly experience.

In Ram Murthi Saran Vs. State of U.P. and others reported in AIR 1971 All 54, wherein it was held that - “Judge should give clear and sound reasons for the decision and demonstrate that both sides have had their propositions considered.”
OPERATIVE PART

At the end of the Judgment or in the operative part, the result of the decision should be expressed in clear and understandable language. It is always advisable to read the relevant section of the Penal Law before passing any sentence of conviction. While rendering Judgments in Criminal cases, the following are to be observed as required under Section 354 of Cr.P.C. The Judgment is to be written in the language of the Court and that it shall contain the point or points for determination, the decision and the reasons for the decision, the section of I.P.C. or other Law under which, the accused is convicted and punishment to which he is sentenced. Judgment should finally record the result of the determination either convicting or acquitting the accused in a Criminal case and in the case of conviction, clearly indicating the quantum of sentence both in terms of imprisonment and fine and consequences of failure to pay fine within the prescribed time. The Judgment should also indicate (a) Whether the sentence to run concurrently or consecutively, (b) Whether the accused is entitled for set off or not, the period of detention, if any, undergone by him as under trial (Section 427 and Section 428 of Cr.P.C.).

In case of acquittal, the Court shall state the offence of which the accused is acquitted and direct that he should be set at liberty, if he is in judicial custody and his presence is not required in other case. In case of conviction for an offence punishable with death or in the alternative with imprisonment for life, the Judgment has to state the reasons for sentence awarded and special reasons for death sentence. In case of conviction with imprisonment for a term of one year or more, a shorter term of less than 3 months, also required the Court to record reasons for awarding such sentence unless the sentence is one of imprisonment, till the raising of the Court or unless the case was tried summarily under the provisions of the Code. The Court may when passing Judgment, Order the whole or any part of the fine recovered to be applied in the payment to any person of compensation for any loss or injury caused by the offence. When a Court imposes a sentence of which, fine does not form a part, the Court may when passing Judgment, Order the accused person to pay, by way of compensation, such amount as may be specified in the Order to the person who has suffered any loss or injury by the reason of the Act, for which, the accused person has been so sentenced (Section 357 of Cr.P.C.). Property Order should carefully be noted in the result portion. The Court may make such Order as it thinks fit for the disposal by destruction, confiscation or delivery to any person claiming to be entitled to possession thereof or otherwise, of any property or document produced before it or in its custody or regarding which any offence appears to have been
committed, or which has been used for the commission of any offence (Section 452 of Cr.P.C.).

Section 355 of Code of Criminal Procedure further explains a summary method of writing Judgment by Metropolitan Magistrates, giving only particulars regarding the case, name, parentage and residence of the accused and complainant, the offence complained of or proved, plea of the accused and his examination (if any), the Final Order and the date of Order, and where appeal lies, a brief statement of the reasons for the decision. The Order to pay compensation where the Court imposes sentence or fine, Order of compensation for groundless arrest and the Order to pay costs in non-cognizable cases, may be made with the Judgment under Sections 357, 358 and 359 of the Cr.P.C. Section 360 of Cr.P.C. says to release on probation and special reasons in certain cases where the Court deals with the accused under Section 360 of Cr.P.C. or the Probation of offenders Act, 1958. Section 357 – A of Cr.P.C. should be kept in mind for awarding compensation to the victim. Name of the victim in cases like Rape, Outrage of Woman etc., should be avoided.

(vii) SIGNATURE

At the end of the Judgment, the Presiding Officer should make his signature clearly indicating his typed written name in bracketed portion with designation and date of signing.

EFFECTIVENESS MEASURED

Effectiveness of a Judgment can be measured by the manner how best the Judgment conveys what the Judge wants to communicate to its readers. The Judgment should be self contained document from which it should appear what were the facts of the case and what was the controversy involved which has been decided by the Court and in what manner. Structure of the Judgment should be such that a reader while reading it without any difficulty understands the facts delineated and may be able to know every reason and the way, in which it has been decided, it should be simple, brief and clear.

SUGGESTIONS/TIPS FOR WRITING JUDGMENTS

Here are few other suggestions on how to write the Judgments:

(a) AVOID QUOTING FROM CONTENTS OF THE CHARGE SHEET/COMPLAINT AND EVIDENCE
A Judge should avoid quoting extensively from the contents of the Charge Sheet and evidence of both the parties. If he wants to discuss the evidence with reference to the contents of the Charge Sheet, he should do so in his own language rather than quoting and thereby leaving the parties to guess what for they have been quoted.

(b) REFERENCE TO THE PRECEDENTS

Article 141 of Constitution of India provides that - “the Law declared by the Supreme Court shall be binding on all the Courts within the territory or India”. Reference to the Precedents which may be relied on by either of the parties may be made, but caution should be taken to ensure that one which is nearest on the points involved in the case and the facts should be relied. It should be ensured that the relied Precedents are actually relevant to the controversy involved. Quoting from the Precedents as far as possible should be kept bare minimum. The Presiding Officer should generally refer to the ratio of the Judgment with reference to the Law Point which he seeks to rely in his own language so as to omit unnecessary part. If at all he decides to quote, he should quote only that part of the Precedent which is absolutely essential for deciding the controversy in question and it should be restricted to one or two of the latest case Laws on the subject. Quoting extensively from number of Precedents, one after the other, not only add on the pages of the Judgment, but in the process, may end up loosing its focus on the Central Issues. Do not be just misled by head notes. Read the substantive part of the Judgment and try to gather ratio decidendi thereof. The Presiding Officer should always keep his knowledge updated on the subject in issue so as to ensure that his Judgment is in conformity with latest approach of the Law and is not in conflict with the binding decisions of the Hon’ble High Court concerned and the Hon’ble Supreme Court. It may require some research back Home, but that is worth of it.

No extraneous material or personal knowledge or surmises or conjectures should be allowed to creep in the Judgment. While writing the Judgment, criticism of the parties thereto or their witnesses or a person not a party to the litigation, should be avoided. If however doing so becomes necessary for any justifiable reason, the language should be of utmost restraint while always being reminded of the fact that even the person making the comment is not fallible. The language of the criticism therefore should be sober, dignified and restrained as the use of intemperate and satirical
language is very antithesis to a Judicial determination. Disparagingly libelous remarks against as person who is not a party to the litigation and who has had no opportunity to defend himself, should always be avoided. Care should be taken not to pass adverse or scathing remarks against Presiding Officer of a Subordinate Court, more particularly when he has not been provided with the opportunity to present his view point.

As was pointed in Niranjan Patnaik Vs. Sashibhusam Kar and another reported in 1986 (2) SCR 47, harsh or disparaging remarks are not to be made against persons and authorities whose conduct comes into consideration before Courts of Law unless it is really necessary for the decision of the case. Use of intemperate language or making disparaging remarks against any one unless that be the requirement for deciding the case, is inconsistent with judicial behavior. In the case of State of M.P. Vs. Nandlal Jaiswal and others reported in (1986) 4 SCC 566, wherein it was held that—

**USE HEADINGS AND SUB HEADINGS**

Use of headings and then sub headings in a Judgment, which you consider might consume comparatively more pages, would always be helpful not only for the purpose of arranging the Judgment in cohesive manner, but also for the convenience of its readers. This would help break the monotonous reading of the continuous text and enable the readers to reach that part of the Judgment which interests them most. It would help in avoiding repetition and keeping the discussion lively. By this method you can segregate one topic from another. A sub-heading given below the heading should broadly fall within the purview of the topic covered under that heading.
GIVING REASONS

Findings recorded by the Presiding Officer on different points, for or against any party should always be supported by clearly explained reasons. Every party has the right to know how and in what manner the Judgment has been decided in his favour or against him. Reasons are also necessary for being appreciated by the appellate Court as to what weighed in the mind of the Judge in deciding the matter, the way he has done. In fact, right to know the reasons of a Judgment is inherent in the right of appeal granted to a litigant by the statute or otherwise. Giving reasons is thus considered integral part of the Principles of natural justice.

A Presiding Officer ought not to merely decide a case just by saying “dismissed” or “allowed” without giving the reasons how he came to that conclusion. In doing so, such Judge shifts the entire burden of giving the reasons to the appellate Court. Increase in the quality of the decided cases by such Judge can never be a substitute for the quality of Judgments. An alert Judge therefore always ensures that his decision is framed in such a way that its contents have the persuasive value even for the appellate Court to agree with his viewpoint.

Requirement of giving reasons can not be sacrificed merely for the sake of brevity, for brevity should not tend to obscurity. But at the same time, Judgments should not be too prolix, verbose and lengthy. Judgment is the most important document which the Court hands out to the seeker of Justice. Therefore, the reasons that it contains assume significance. Absence of reasons makes the Judgment appreciates not proper. The reasons should be stated clearly for proper understanding. The reasoning should be based on the evidence.

In Bachan Singh’s case reported in (1980) 2 SCC 683 and another Judgment rendered by our Hon’ble Supreme Court in Des Raj Vs State of Punjab reported in 2007 (8) SCJ 237, a constitutional bench while upholding the constitutional validity indicated broad criteria which should guide the Courts in the matter of sentencing, and held that “for making choice of punishment or for ascertaining the existence or absence of special reasons in that context, the Court must pay due regard both to crime and criminal”. A Judgment is not expected to be verbatim narration of the entire evidence. Reasoning is not
expected to be complete reproduction of the evidence. The evidence which is necessary for determination of questions in controversy between the parties should be discussed. There is no necessity to discuss the minute details which are not necessary.

**LINKAGE AND COHESION**

(g) The Judgment should be arranged in such a way that the reader is able to know effortlessly how and why the Judge has reached the given conclusion. While framing the Judgment, discussion on the arguments advanced before the Court should as far as possible be made in the Order in which the arguments have been noticed. There should be cohesion and linkage of the preceding part of the Judgment with the succeeding one. Discussion on one topic should end in such a way as to connect it with the beginning of another. Each paragraph of the Judgment should follow naturally on from the one before and should lead on naturally to the one following. While all relevant arguments advanced by the learned counsel for the parties may be noticed and discussed, but at the same time, the Judge should be judicious enough to eliminate the irrelevant arguments.
This is necessary with a view to saving space in the Judgment which in turn will save unnecessary burden to the readers of the Judgment. The Judge may only briefly state the reasons for accepting or not agreeing with the arguments. Even when Judge is dealing with a number of different and complex issues, the Judgment should be a strategic whole and it should look like an interwoven single document. Flow of a Judgment should never be lost and should make an interesting reading from beginning to end. Therefore, ensure that the result is as concise as is compatible with the findings on the points and questions involved in the matter. Make sure that the Judgment contains a proper balance between exposition, analysis and conclusion. Ensure that it is written in easy language and does not contain language which will require to verify dictionaries. Never use slang and loose language in order to appear streetwise.

**DELAY IN DELIVERY OF THE JUDGMENT**

Judgment should be delivered at the earlier possible time. Early pronouncement of the Judgment may save the Judge from unnecessary criticism. Section 353 of Code of Criminal Procedure says that the Judgment in every trial in any Criminal Court of original jurisdiction shall be pronounced in open Court by the Presiding Officer immediately after the termination of the trial. Time is of the essence of in the delivery of justice. Delay in handing down the decision increases their agony and frustration. Of-course, Justice hurried is Justice buried. The Hon’ble Supreme Court in **Hussainara Khatoon Vs. State of Bihar** reported in **AIR 1979 SC 1374**, wherein it was held that –

—a system of Criminal Procedure which did not prescribe a speedy trial could not be said to be either fair or reasonable and speedy trial is of essence to Criminal Justice and there can be no doubt that the delay in trial by itself constitutes denial of Justice.

**TAKING NOTES – MAKING NOTES**

Seeking clarifications always helps, no Judges should feel
embarrassed to put questions to clarify his doubts. It is better to ask questions, understanding the issue and then write the Judgments rather than attempting a decision without fully understanding the issues. A Presiding Officer should cultivate the habit of taking notes while hearing the arguments, especially in cases which involve complex issues and may require longer Judgments. By this method, he will not miss important arguments and it would immensely help him in improving quality of the Judgment. Likewise, he may prepare a handwritten draft of the Judgment before dictating the Final Judgment. This would, on its own, ensure conciseness and brevity of the Judgment and would also, with the proximity of time that his thought process would have while translating the ideas on to the paper, tremendously improve quality of the Judgment. This would also enable the Presiding Officer to make corrections, modifications or additions in the last draft before he finally sits back to dictate the Judgment.

(j) GIVE A SECOND LOOK

Barring the short Orders on the matters of the movement, when the presiding officer is deciding a Judgment, he should invariably give a second look to the Final Draft of the Judgment, because there is always a room for improvement. Giving final glance, he would always feel tempted to rewrite some of the points of the final text of the Judgment, which would definitely improve it.

(k) CORRECTIONS

Normally a Judgment when pronounced in the Court or dictated in the open Court should be allowed to go in the shape it was made known to the parties, but at the same time, a Presiding Officer should always have the liberty to make corrections of facts and figures or grammatical error
when he is making proof reading even of such Judgment. It is in the interest of both the parties that the Judgment does not go with such mistakes and ambiguities necessitating them to come back to the Court for their correction. Care however should be taken to ensure that there is no major or substantial change and final result of the case should always remain the same. Though comprehensive they may be, there cannot be exhaustive guidelines for writing of a Judgment.

The Hon’ble Supreme Court in Hari Singh Mann Vs. Harbhajan Singh Bajwa reported in (2001) 1 SCC 169 wherein it was held that -

Section 362 of the Criminal Procedure Code mandates that no Court, when it has signed its Judgment or Final Order disposing of a Case shall alter or the same except to correct a clerical or an arithmetical error and that this Section is based on an acknowledged principle of Law that once a matter is finally disposed of by a Court, the said Court in the absence of a specific statutory provision becomes functus officio and disentitled to entertain a fresh prayer for the same relief unless the former order of final disposal is set aside by the Court of competent jurisdiction.

The trial Courts form the base of the judiciary and bulk of judicial work as handled by them. Their importance lies in the fact that it is on their performance that the quality of administrative of Justice largely depends. Many cases in these Courts are of poor litigants. A good deal of responsibility, therefore, lies on the Presiding Judge or Magistrate to ensure that proper material is brought on record which is necessary for arriving at a just conclusion and that the case is handled promptly in such a manner that no litigant suffers on account of poverty or lack of proper legal advise.

The large number of filings, huge pendency and enormous work load put a tremendous pressure on the Judges, making it very difficult to write elaborate Judgments. But that is no justification for disposal of cases by one line Orders or brief one para Orders, which neither discuss the issues, nor refer to facts. For most Judges, preparing Judgments is the most demanding, challenging and even stressful part of Judicial life. However, it can also be the most creative and rewarding.
CONCLUSION

A good and sound decision is not possible unless the Judge has good and sound qualities – absolute integrity and impartiality, sound knowledge of legal principles, deep understanding of human psychology and the needs of the society, keen perception of what is right and wrong, and lastly readiness for hard work – to study and analyze the facts, apply the Law and write well reasoned Judgments. Do not treat litigation as mere statistics. Cases are not mere statistics that earn units or points for Judges to meet their monthly quota of disposals. Each case that comes before a Judge is a human problem concerning life, liberty, rights, food, shelter, safety and security of the citizen. Most of the litigants belong to the down-trodden and weaker sections of society who are defenseless, poor and ignorant. Their silent cry for justice, for civilized human solution to their grievances and problems, and for a level playing field should be felt and heard by the Judge and never escape from his attention.