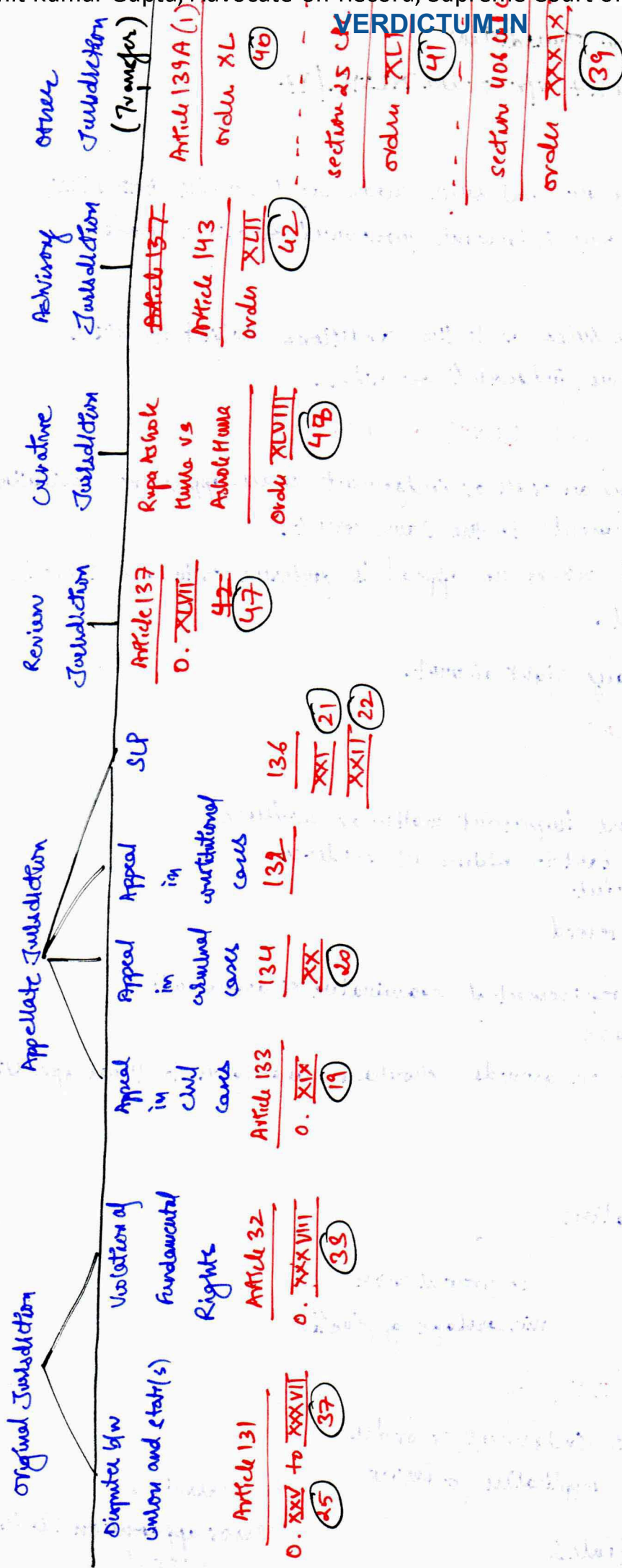


Jurisdictions of Supreme Court



Review Jurisdiction

Article 137 v/w order XLVII/47

≠ Article 137

subject to provisions of any law and rules made by SC under Article 145, SC has power to review any judgement pronounced or order made.

Article 145(e)

SC is authorized to make rules as to the conditions subject to which the court may review any judgement or order.

~~Article~~ section 114 and order XLVII of CPC, 1908

- Any person aggrieved by an order or judgement may apply for reviewing the said order or judgement to the same court.
- It cannot be filed where no appeal is preferred or in case there is no provision for appeal.
- Review is a discretionary right of writ.

order XLVII Rule 1 CPC

grounds for review —

1. Discovery of new and important matter or evidence
 - No remission on his part to adduce all evidence.
 - new evidence relevant
2. Error apparent on record
 - Not defend
 - self-evident + No requirement of examination or argument
3. other sufficient cause
 - A reason sufficient on grounds should be analogous to those specified in the rules above

Review

Judicial re-examination

to rectify an error

to prevent gross miscarriage of justice

SC Rules order XLVII /47

- ≠ SC may review its judgement or order

civil → Application for Review → grounds under XLVII / Rule 1

criminal → error apparent on the face of record

- certificate by AoR → First application + Band on grounds admissible under the rules.
- Application by way of petition, clearly setting out the grounds for review.
- Limitation is 30 days from the date of judgement or order sought to be reviewed.
- unless otherwise ordered, disposed of by circulation without oral arguments, but petitions supplement by additional written arguments.
- As far as practicable, before the same judge or bench of judges.
- If court reverses or modifies on grounds of mistake of law or fact, in the interest of justice, refund court fee in whole or in part.
- No further review allowed.
- court fees — same as was paid for the original proceedings.

Leading case law

- Ram Dev chandni

Plea of juvenility not considered by the lower court, even though not raised

- Mohd. Arif - criminal herein against confirmation of death sentence heard by 3 judges in open court

Exceptions

- cannot for clarification, reconsideration and modification.
- Not maintainable if alternative view is possible.
- Point not argued initially should not be allowed to argued at this stage.
- Sandhya Educational Society vs UOI (Vinod Kapoor vs State of Goa)
once s.c is dismissed as withdrawn without obtaining appropriate permission to file a s.c once over again after exhausting the remedy of review petition high court, the same is not maintainable
- Madhai @ Joly vs. George
 - Perhaps a curb against s.c of frivolous nature or against standing kind of order need to be considered
 - converting the s.c practically into an ordinary appellate court was never the intention of Article 136

1. HC to entertain a review petition after SLP against the said order has been filed & got dismissed by SC?
2. Does it make a difference if the review petition was filed before the dismissal of the SLP?

Abba i Mallgar:

RC order in existence → Appeal → Review before HC → SLP
 (respondents were on arrest) → After hearing counsel → SLP dismissed
 → Review in HC after 21 days delay → Allowed → SLP → Appeal → condonation of delay + Reversal of earlier order was

- subversion of judicial discipline
- palpably erroneous
- affront

to the order of SC dismissing SLP
 order was based on

personal facts and circumstances of the case

Did not hold as a general principle of law that a review is not maintainable

K. Rajamouli followed Kunhayammed

Dismissal of SLP would not constitute Res-judicata, provided the review petition was filed prior to the filing of SLP.

Meghamala, after referring Abba i and Kunhayammed

If review petition filed before filing SLP and remains pending till SLP stands dismissed, the review needs to be considered.

However, if it is filed subsequent to dismissal of SLP, then it would be an abuse of process of court.

Gangadhara

Held that it makes no difference whether filed before or after, review stands bound due to doctrine of merger, even when the SLP was dismissed in limine.

Kudray Dittilleri

~~No review after dismissal of SLP~~

1. order dismissing SLP (speaking or non speaking) does not attract doctrine of merger.
2. If speaking → statement of law Article 141. findings bind the parties & also other court, Tribunal etc.
3. If SLP admitted, then doctrine of merger attracted.
4. on Appeal filed or SLP converted into appeal, no review lies.