

Verdictum

11)

Article 139A(1)

139A(2)

25 CPC

406 CrPC

- cases involving the same or substantially same
- questions of law
- pending in SC + HC/HCs
- SC is satisfied on its own motion or application by A/c or party to any case
- questions are substantial questions of general importance
- withdraw case or cases before HC/HCs & dispose of all the cases itself.

Case, appeal or other proceedings

T/f any suit, appeal or other proceedings

T/f any particular case or appeal from

HC → HC

HC → HC

HC → HC

CC → CC to HC

SC of HC → SC of HC

Expedient to do for ends of justice

expedient to meet the ends of justice

to meet the ends of justice.



~~XXX~~

XLI / (4)

XXXIX / (39)

+ Section 11, Terrorist

Affected Areas (Special Courts) Act, 1984

• Affidavit in reply ≤ 2 days ~~1004~~

• Affidavit in reply ≤ 2 previous day of hearing.  
• cost compensation

XI / (40)



• If by A/c = ~~Affidavit~~ certificate by AOR that such questions are substantial questions of general importance.

If by party = + Affidavit

• Within 4 weeks, HC to inform at which stages, the cases stand

• T/f when ripe for hearing.

• Registered as T/f case.

XLVIUnder Presidential and Vice-Presidential Elections Act, 1952

- Court fee = ₹ 20,000/-
- Security = ₹ 50,000/- for costs
- Affidavit can't be made by reason of illness, absence or other sufficient cause, affidavit of any other competent person, after permission of Judge in chambers.
- one or more grounds u/s 18(1) & 19(1)
  - by any candidate
  - in the case of Presidential election = 20 or more electors
  - - - - - vice-Presidential election = 20 or more electors
- certificate from senior Advocate → discloses one or more substantial questions for ~~or~~ challenging the election of P/VP.
- If claiming declaration u/c 16(a) → Implead Returned candidate  
u/c 16(b) → Implead all candidates other than himself.
- Petition after date of publication of the declaration.
- Bench ~~#~~ ~~≡~~ = 5 Judges Preliminary hearing
- Notice of petition in official Gazette & advertised in newspapers, unless dispensed.
- Bench ~~≧~~ = 5 Judges Main Hearing
- Withdraw with permission + all petitioners. = not induced by any extraneous or improper bargain or consideration.
- Abate on death of sole petitioner / survivor of several petitioners  
No abatement after conclusion of hearing.
- After hearing, Registrar to submit a statement to court showing court fees & other expenses
- court order for publication in official gazette.

APPELLATE JURISDICTION

Article 132

Constitutional

Appeal from

Judgement

Decree

Final order

J
D
FO

of a HC, if certifies

case involves substantial question of law as to interpretation of constitution

- civil + criminal
- certificate u/a 134A
- can be against order of single judge

133

Civil

Appeal from

Judgement

Decree

Final order

J
D
FO

of a HC in a civil proceedings, if certifies that it involves a substantial question of law of general importance.

- cannot be against order of single judge

134

Criminal

Appeal from

Judgement

Sentence

Final order

J
S
FO

of HC in a criminal proceedings, if HC

- (a) on appeal, reverse acquittal & sentenced him to death
- (b) withdraw a trial before itself, any case subordinate to it & has convicted/sentenced to death
- (c) certifies it fit for appeal to SC

Limitation

Limitation

~~60 days without certificate + Decree~~

60 days with certificate: Grant of leave

Six chunial v. Mehra vs The central spinning & Mfg. Co Ltd.

question of law

60 days: Death  
90 days: Other cases

60 days: Date of refusal of certificate

- Question of general public importance
- Directly & substantially affect the rights of parties.
- open question, not yet settled by the courts
- Not free from difficulty
- calls for discussion of alternative views.

Section 379 CrPc + section 2, SC (Enlargement of Criminal Appellate Jurisdiction) Act, 1970 + Amendment Act, 1972

Appeal from J, S, or FO of HC

- (a) on appeal, reverse acquittal & sentenced to death, life imprisonment or imp. > 10 years
- (b) withdraw for trial, convicted & sentenced to life imp., imp > 10 years.

SC Rules

If life sentenced - surrender by petitioner else, application for exemption.

Article 134A

Every HC while giving a decree, judgement, final order or sentence under articles 131, 132, 133 & 134 in civil, criminal or other cases involving 'substantial question of law as to the int. of Const.' may on its own determine if a certificate is to be given - (as soon as may be/over consultation)

Not institutionally anything in this draft

136

13

SC

(Civil/Criminal)

In its discretion, grant leave for appeal from

Judgement

Decree

Determination

order

Sentence

J
D
D
O
S

in any case or matter made by any court or Tribunal in the territory of India except court/tri constituted by or under any law relating to armed forces.

• Not from executive, administrative order

• Tribunal should exercise judicial power

• Person who is not party can also file if aggrieved

• Interim relief can be given.

Civil	Criminal
90 days	60 days death
60 days from refusal of certificate	90 days other
	60 days refusal of certificate

## SCP (Civil/Criminal)

114

### 1. Chandra Kumar vs UOI

Remedy under Article 136 is part of basic structure & can't be taken away even by a constitutional amendment.

### 2. Meghraj Kothari vs. Delimitation Commission

As Article 329 provides that law relating to delimitation shall not be questioned. This is different as bar is provided in the constitution itself.

### 3. Durga Mehta vs. Thakur Singh

Finality of order under RPA is only with regard to that Act only.

### 4. Mahesh Chandra vs Delhi Administration / Lakshmi Reddy vs State of AP

Benefit of acquittal can be given to the accused if no has not preferred an appeal before SC reaches the conclusion no conviction was possible.

Principles shall be uniformly applicable whether sentenced or acquitted.

### 5. Dalbir Kaur vs State of Punjab

- No interference with concurrent findings of facts, if court has a different opinion.
- No interference unless assessment of HC was an error of law, procedure or record e.g. ocular evidence is inconsistent with medical evidence.
- Not enter into credibility of witness
- Interfere with findings of facts only [PONI / due process / serious prejudice]
- Interfere if conclusion based on no evidence.

### 6. Pritam Singh vs State

- sparingly & exceptionally.
- Grave or substantial injustice / [PONI] / Miscarriage of justice.