A CRITICAL ANALYSIS OF SECTION 107 BNSS AND PROPERTY ATTACHMENT UNDER THE PMLA

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ABSTRACT

In essence, the provision envisages a consolidated framework of attachment, forfeiture and restoration of the property assumed to be obtained from proceeds of an offense. In this way, it confers uncharacteristic powers to both the investigative agencies and the criminal courts where any moveable or immovable property assumed to be a proceed of any offense under the Bharatiya Nyaya Sanhita, 2023, may be attached by an investigating agency. Also, this is a deviation from the present criminal procedural law which envisages the forfeiture and restoration of any property of the offenders only at the conclusion of the trial proceedings. For the first time, this section empowers the courts to initiate the attachment proceedings or even the disposal of the proceed of the offense even at the preliminary stage before the conclusion of trial. In my opinion, though it seeks to empower the recovery mechanism and also compensates victim's loss but it raises significant constitutional and procedural issue.

The paper argues that S. 107 confers a wide and sweeping power to deprive individuals of property without incorporating the essential procedural safeguards, i.e., limitations in duration, remedies of appeal, remedies of restoration, and the doctrine of proportionality. It is possible that ex-parte interim attachment, as well as the liquidation of property prior to the finding of guilt and conviction, would be detrimental to the right of due process, fairness, and the presumption of innocence envisaged under art. 14[1] & 21[2] of the Indian Constitution. In fine, the paper is of the opinion that although S. 107 tries to make up the loopholes in the criminal procedure, as far as the proceeds of the offence are concerned, a good amount of procedural safeguards and judicial interpretations of S.107 are needed to avoid the arbitrary application of the power.

Keywords: Section 107 Bharatiya Nagarik Suraksha Sanhita, 2023 Attachment of Property, PMLA, Proceeds of crime, Due process, Article 14, Article 21, Criminal procedure, Presumption of innocence.

[1]INDIA CONST. art. 14.
[2]INDIA CONST. art. 21.

1. INTRODUCTION

The Law on the property attachment in criminal proceedings in India took a paradigm shift in its nature with the introduction of the BHARTIYA NAGRIK SURAKSHA SANHITA, 2023. [3]The property attachment in previous laws under the Code of Criminal Procedure, 1973, had limitations in their scope and aimed at the appearance of the accused or further investigation. In effect, there was no law dealing with the property attachment in the criminal proceedings.

The insertion of Section 107 in BHARTIYA NAGRIK SURAKSHA SANHITA has resulted in a paradigm shift regarding the concept of property attachment in criminal proceedings in India. Section 107 seems to be the solution for the legal vacuum of crimes deriving benefit from properties earned from crime, and raises concerns regarding legal uncertainty. This provision can be read in consonance with the organised procedure under the Prevention of Money Laundering Act, 2002.[4]

2. LITERATURE REVIEW

A. Ratanlal & Dhirajlal, The Code of Criminal Procedure

This explains the nature of attachment under the provisions of Criminal Procedure Code, 1973-Sections 82, 83, 102. It reflects that attachment under the Criminal Procedure was restricted to only appear at the stage of appearance or investigation and it was not full proof remedy with regards to proceeds of crime.[5]

B. K.D. Gaur, Textbook on Indian Penal Code

K.D. Gaur deals with the connection between criminal liability and unjust enrichment and punishment. This work is helpful in comprehending how and why modern criminal justice is, and must necessarily, move beyond only punishing the offenders. The modern approach looks at deprivation of ill-gotten wealth which they acquire as a result of committing the offense.[6]

[3] Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023 (India).
[4] Ratanlal & Dhirajlal, The Code of Criminal Procedure 1450–56 (23rd ed. 2022)
[5] Ratanlal & Dhirajlal, The Code of Criminal Procedure 1450–56 (23rd ed. 2022).
[6] K.D. Gaur, Textbook on Indian Penal Code 112–18 (7th ed. 2020)

C. M.P. Jain, Indian Constitutional Law

M.P. Jain, is considered relevant in explaining principles under Article 14 and 21 of the Constitution, non-arbitrariness and proportionality, due process and a legal right to hold property in law. It is beneficial in assessing whether the pre-trial attachment and liquidation under section 107 BNSS are arbitrary deprivation of property.[7]

D. Delhi Police Academy, Handbook on Bharatiya Nagarik Suraksha Sanhita, 2023

The Delhi Police Handbook outlines the raison deter behind section 107 Bharatiya Nagarik Suraksha Sanhita ,2023. The Handbook reiterates that section 107 Bharatiya Nagarik Suraksha Sanhita ,2023 was added because under prior criminal law there was no special remedy concerning properties derived directly or indirectly from the proceeds of an offense.[8]

E. Vijay Madanlal Choudhary v. Union of India, 2022 SCC OnLine SC 929

This decision is helpful in ascertaining constitutional permissibility of various provisions of PMLA concerning Proceeds of Crime, attachment, confiscation, money laundering etc, it could be useful to draw parallel or make comparisons of safeguards under PMLA in comparison with section 107 Bharatiya Nagarik Suraksha Sanhita, 2023.[9]

3. RESEARCH GAP

Existing literature refers to attachment and confiscation of property under the Code of Criminal Procedure, 1973 and specialised statutes such as the Prevention of Money Laundering Act, 2002. Books such as Ratanlal & Dhirajlal's The Code of Criminal Procedure, K.D. Gaur's textbook on Indian Penal Code, and M.P. Jain's work discuss attachment in the traditional sense, the constitutionality of the same and provisions protecting the citizens from capricious action of State. Similarly judicial decisions such as Vijay Madanlal Choudhary v. Union of India primarily deals with attachment and proceeds of crime under PMLA.

[7] M.P. Jain, Indian Constitutional Law 1298–1307 (8th ed. 2018).
[8] Delhi Police Academy, Handbook on Bharatiya Nagarik Suraksha Sanhita, 2023 15–16 (2024).
[9] Vijay Madanlal Choudhary v. Union of India, 2022 SCC OnLine SC 929.

There appears to be very few works that focus on the analysis of section 107 of Bharatiya Nagarik Suraksha Sanhita, 2023 especially in context of pre-trial attachment, liquidation of property, lack of remedy of restoration and proportionality, its implication on the constitutional principle of presumption of innocence. Hence, the present research aims to analyze the section 107 BNSS in conjunction with constitutional law as well as specialised confiscatory legislations by a doctrinal and comparative approach.

4.RESEARCH QUESTIONS

1. Whether the pre-trial attachment, forfeiture and liquidation powers granted by Section 107 of the Bharatiya Nagarik Suraksha Sanhita, 2023 are excessively broad and unfettered and violate Articles 14 & 21 of the Constitution including the presumption of innocence?

2. Whether the procedural safeguards stipulated in Section 107 BNSS are sufficiently robust in comparison to other specialized legislations like PMLA, 2002 particularly in respect to principles of proportionality, restoration of property, appellate options, protection against deprivation of property without due process and legal provisions for equitable restoration of the confiscated property to its rightful owners or persons interested therein.

5. RESEARCH OBJECTIVES

A. A critical review to ascertain whether the pre-trial attachment, forfeiture and liquidation powers granted to the authorities under Section 107 of the Bharatiya Nagarik Suraksha Sanhita, 2023 are wide and in accord with Articles 14 and 21 of the Constitution of India, along with the doctrine of presumption of innocence.

B. To make a comparative study on the procedure and checks and balances ensured in the Section 107 of BNSS in conjunction with specialized laws like PMLA, 2002, particularly with respect to proportionality, restoration of property, availability of appellate remedies and the rights against arbitrary deprivation of property.

6. RESEARCH METHODOLOGY

This present research takes doctrinal as well as comparative method. This paper discusses mostly on the statutory provisions in Section 107 of the Bharatiya Nagarik Suraksha Sanhita, 2023 with comparison to provisions in the Prevention of Money Laundering Act, 2002 related

to attachment and confiscation of property. This paper uses various case laws, constitutional provisions Article 14 and Article 21, parliamentary materials and secondary materials to investigate the legality, proportionality and fairness of the property attachment in criminal law of India.

7. STATUTORY FRAMEWORK OF SECTION 107 BNSS

In this perspective, section 107 of BHARTIYA NAGRIK SURAKSHA SANHITA seems to take the existing law beyond the previous law in CrPC that confined attachment to very few scenarios. Section 107 will now serve to create provisions for the attachment of the proceeds of any crime defined under the Bharatiya Nyaya Sanhita, 2023 ("BNS") and of any property situate in India. Significantly, in this context, the Delhi Police Academy's handbook on the BHARTIYA NAGRIK SURAKSHA SANHITA[10] (Delhi Police Handbook) also points to the necessity to fill the vacuum that existed under the CrPC; it states:

This new section has been introduced in the Sanhita since it has been learnt from past experience that there was no specific section to deal with issues wherein property was derived/earned directly or indirectly from proceeds of crime."

7.1 Definition of 'proceeds of crime' as available in section 111(c) of bnss

"(c) proceeds of crime" means any property derived or obtained directly or indirectly, by any person as a result of criminal activity (including crime involving currency transfers) or the value of any such property;

7.2 Procedure of attachment

Section 107 of the BNSS 2023 has a defined procedure concerning property believed to have resulted from criminal activity. According to the section, if during investigation the police official has a reasonable belief that any property is a direct or indirect result of the commission of an offense, he shall first seek permission from the Superintendent of Police/ Commissioner of Police and then approach the Competent Court or Magistrate to order the attachment of the said property. This Court or Magistrate is vested with the power to investigate into the said

[10] Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 107 (India); Bharatiya Nyaya Sanhita, No. 45 of 2023 (India).

offense, send it for trial, or try it by himself.[11]

The Court or Magistrate, on receiving the application, would determine whether there exist sufficient grounds to assume that the property is proceeds of a crime, independently or prior to any preliminary evidence. The court, if satisfied, may then issue a show cause notice to the individual asking why the property should not be attached and to provide a reply within fourteen days. The person who holds the property on behalf of the concerned individual shall also receive a copy of this notice, ensuring that any such individual holding property on the individual's behalf also gets involved.[12]

7.3 Notice

Post the receipt of the notice, the court hears out the explanation, considers all available facts, and gives the party a fair hearing, where after it may direct the final attachment of the property it has identified as connected to a crime.[13] If no reply is received within the stipulated 14 days, the court may issue an attachment order ex parte.[14] If it is believed that immediate seizure and attachment of the property would not be possible and may defeat the purpose, an interim ex parte order may be issued until a final order is passed.[15]

Unlike other sections like 106 that talk about seizure, section 107 also encompasses the concept of forfeiture of property, as well as distribution. It can also direct the District Magistrate to distribute the property among the victims proportionate to the loss suffered. Distribution must take place within 60 days.[16] Any excess remaining would go to the Government.[17]

It can be that the essence of this section is the smooth functioning, starting from investigation, leading to attachment, and finally compensation or state forfeiture, thereby making the process more fluid for property obtained as proceeds of a crime. According to Section 107 of BNSS, the police officer has to approach the jurisdictional Magistrate requesting the attachment of any property which is presumed to be a direct or indirect result of a crime, on an inquiry. The Magistrate then has the power to attach the property after hearing both parties, or to provide an

[11] Delhi Police Academy, Handbook on Bharatiya Nagarik Suraksha Sanhita, 2023 15 (2024).
[12] K.D. Gaur, Textbook on Indian Penal Code 112–18 (7th ed. 2020)
[13] Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 107 (India)
[14] Id.
[15] Id.
[16] Id.
[17] K.D. Gaur, Textbook on Indian Penal Code 112–18 (7th ed. 2020).

interim order when any sort of notice to the owner of the property might sabotage the very process of attachment and seizure. After confirmation of the property as an outcome of a crime, it can ask the District Magistrate to distribute it among all those involved. This thus makes a clear statement giving explicit powers to the magistrate with regard to dealing with the proceeds of a crime.[18]

The Kerala High Court has explained the differentiation between sections 106 and 107. MR. JUSTICE V.G. ARUN expressed that in contrast to section 106, which provides for seizure, section 107 encompasses attachment, forfeiture, and restitution.[19] The logical reason for this disparity is that section 106 deals with seizure of the property for securing evidence during investigation, where section 107 deals with securing the proceeds of a crime so as to ensure its availability for future procedures like forfeiture and restitution.

One of the remarkable things about section 107 is that it not only provides attachment of proceeds of crime, but it also provides for final order of confiscation and liquidation of the proceeds of crime as well as the money realised to be paid to the victim. This has to be done prior to the final conclusion of the trial.[20] This procedure is entirely different to what was provided in the 1944 Ordinance and PMLA. Under both these laws, final confiscation/forfeiture is provided for only after the conclusion of the trial. As has been demonstrated below from the language used in the section, the same can be invoked even at a pre-trial / pre-conviction stage:[21]

(a) Use of phrase in Section 107 (1), "make an application to the Court or the Magistrate exercising jurisdiction to take cognisance of the offence or commit for trial or try the case, for the attachment of such property". Clearly identifying the jurisdiction of the court to be one which can exercise powers "to take cognisance", "to commit for trial or try the case", makes the application feasible even prior to the taking of cognisance, or commission of the case for trial.[22]

(b) Delhi Police Handbook has stated that, in making an application for attachment, "the IO

[18] PRS Legislative Research – The Bharatiya Nagarik Suraksha (Second) Sanhita, 2023 (last visited May 13, 2026).
[19] Kerala High Court, Shabir v. State of Kerala, 2025 SCC OnLine Ker ___ (pending official citation).
[20] Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 107 (India).
[21] Criminal Law Amendment Ordinance, 1944, §§ 3–13 (India); Prevention of Money Laundering Act, No. 15 of 2003, § 8 (India).
[22] Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 107 (India).

must take care that before forming a reasonable belief, it should have been supported with relevant information and facts on the basis of sources of income, verification of ITR, mode of payment of property, etc."[23]

(c) If the application for attachment is made, then evidence is to be led before the Criminal Court/Magistrate as contemplated in Section 107 (2). However, reading the bare language of the section clearly indicates that the said evidence is only required for coming to a conclusion about issuing a show cause notice to the accused, and that at this stage, only the IO is before the Magistrate/Criminal Court.[24]

(d) From sub-section (4), where the requirements for passing an order of attachment are stated to be based on the two factors which take into account the explanation of the accused and "material fact" to arrive at a conclusion, the acquittal/conviction is clearly out of the context for forming such a conclusion. Subsection (4) states that where the Magistrate/Criminal Court is satisfied that the property in question is a "proceeds of crime", it can order attachment.

(e) After it forms the satisfaction that the said property is "proceeds of crime", it can pass the order for attachment under sub-section (4) as well as for the liquidation and disbursement thereof in a time-bound manner under sub-section (6). Permanent deprivation of property in the form of forfeiture and liquidation, prior to conviction, may, in the context, turn the presumption of innocence completely on its head. This power to provide for permanent deprivation has not been given even to the legislation on the reverse burden

7.3 absence of express provision on the restoration of an attached property

Section 107 contains three aims of the said section, which are "attachment", "forfeiture", and "restoration", which are stated in the marginal note to S. 107. Whereas the S. 107 provides for "attachment" and "forfeiture", it completely fails to say something on "restoration", at what stage the "restoration" will take place. Nor what procedure is required for, and what will be the time period which should be followed in order to get the attachment property back when ultimately the Magistrate/Criminal Court returns a finding under sub-section(4) to the effect that the said property is not "proceeds of crime". This is a crucial missing link in S.107 and is likely to be addressed through an amendment. In fact, the Ordinance of 1944 included specific

[23] INDIA CONST. arts. 14, 21; Maneka Gandhi v. Union of India, (1978) 1 SCC 248
[24] Id.

procedures regarding release/ withdrawal of attachment orders, and so did PMLA under section 8(6).[25]

7.4 Section 107 empowers police to attach to untainted property:

The definition of "proceeds of crime" as provided under Section 111(c)[26] of BNSS has two parts, namely:

(i) any property derived or obtained directly or indirectly, by any person as a result of criminal activity; or

(ii) the value of any such property, the second part to the aforesaid definition, i.e., "value of any such property", allows the Magistrate/Criminal Court to attach even untainted properties, much like it is allowed under the provisions of PMLA. However, the issue as to whether untainted properties acquired prior to the commission of the crime can be attached on the ground that it seeks to attach property equivalent in value is currently pending in the Supreme Court in the challenge arising out of Delhi High Court's judgment in Axis Bank (supra) . [27]

7.5 Interplay with special statutes –

From the foregoing, it is evident that various special statutes like PMLA, PCA, UAPA, and NDPS permit attachment of properties derived from the commission of the scheduled offences therein prescribed. The question which arises naturally is whether, in the event where attachment is made under any of the above-mentioned special statutes, that would override the attachment sought to be made under Sec. 107 of BNSS, The same is solved by sec. 5 of Bharatiya Nagarik Suraksha Sanhita ,2023, which gives precedence to existing special statutes. However, although Bharatiya Nagarik Suraksha Sanhita ,2023 is stated to give overriding effect to procedures under special law, it cannot be denied that certain of the overlapping provisions within BNSS are more comprehensive and sometimes lack certain checks and balances.[28]

[25] AZB & Partners – Analysis on Bharatiya Nagarik Suraksha Sanhita, 2023 (last visited May 13, 2026).
[26] Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 111(c) (India).
[27] Deputy Director, Directorate of Enforcement v. Axis Bank, 2019 SCC OnLine Del 7854.
[28] Prevention of Money Laundering Act, No. 15 of 2003 (India); Prevention of Corruption Act, No. 49 of 1988 (India); Unlawful Activities (Prevention) Act, No. 37 of 1967 (India); Narcotic Drugs and Psychotropic Substances Act, No. 61 of 1985 (India).

In Vijay Madanlal Choudhary v. Union of India, the Apex Court has examined the constitutionality of the provisions on Proceeds of Crime, Attachment, Confiscation, Money Laundering under P MLA 2002. The case is relevant because it compares the safeguards provided by PMLA with those offered by Section 107 BNSS..[29]

Comparative analysis with PMLA

Basis	**Section 107 BNSS**	**PMLA**
Scope of offences	Applies to almost all BNS limited offences	Confined to scheduled offences
Attachments nature	Directed by the court	Provisional attachment is made by the ED
Period of notice	14 days	Minimum 30 days
Time limit	There is No statutory limit	Time limit of 180 days
Confiscation stage	Pre-trial possible	Generally post-trial
Restitution clause	Non existent	There is express provision
Interim attachment	Ex parte attachment permitted	Procedural safeguards available
Standard of application	"Reason to believe"	"Reason to believe" with adjudicatory framework

8. CONSTITUTIONAL ISSUES UNDER ARTICLES 14 & 21

8.1 presumption of innocence:

The possibility of attachment of properties and even liquidation in pre-trial stage, before conviction of an accused is allowed by Section 107 of BNSS. This deprivation of property before conviction may infringe on the constitutional postulate of the presumption of innocence, which is part of the essential framework of fair criminal procedure under Article 21. The Apex court in Maneka Gandhi v. Union of India and Noor Aga v. State of Punjab had time and again reiterated that safeguards and fair procedural fairness for criminal justice cannot be reduced in any manner.[30]

[29] Vijay Madanlal Choudhary v. Union of India, 2022 SCC OnLine SC 929.
[30] *Noor Aga v. State of Punjab*, (2008) 16 SCC 417

8.2 Due process and fairness

Though notice and hearing are provided in Sec 107, the section allows for preliminary ex parte attachment orders. The lack of strict procedure, statutory limits on time and absence of appeal mechanisms can result in arbitrary power, in contravention to the principles of natural justice under Articles 14 & 21. The Apex court had observed that "Any procedure which deprived a person of personal liberty must be fair, just and reasonable", in Maneka Gandhi v. Union of India.[31]

8.3 doctrine of proportionality

The constitutionality of the provision has been attacked on grounds of violation of proportionality, as state action ought to be proportionate to the end to be achieved. Section 107 of the BNSS may potentially cover an array of crimes under the said act, without differentiating between petty and serious economic offences. The Apex Court had recognised proportionality as the essential criterion to be used under Article 14 of the Constitution of India, in the case of Modern Dental College v. State of Madhya Pradesh.[32]

8.4 arbitrary deprivation of property

It is observed that the Section 107 of the BNS does not elaborate a detailed process of the restoration of property where attachment may later turn out to be not appropriate. The absence of any safeguard in the process of restoration of properties attached and the duration of attachment, along with the absence of any process of appeal further make the entire action susceptible to arbitrary use. It has been observed by the Supreme Court in K.T. Plantation Pvt. Ltd. V. State of Karnataka that deprivation of property has to meet standards of fairness, non-arbitrariness and public purpose.[33]

9. Necessity of Reforms

Though Section 107 of the Bharatiya Nagarik Suraksha Sanhita, 2023, aims at fortifying the legal regime on attachment and forfeiture of the proceeds of crime, the section needs adequate procedural safeguards to prevent arbitrary exercise of power and to bring it in consonance with

[31] Maneka Gandhi v. Union of India, (1978) 1 SCC 248.
[32] Modern Dental College & Research Centre v. State of Madhya Pradesh, (2016) 7 SCC 353.
[33] K.T. Plantation Pvt. Ltd. v. State of Karnataka, (2011) 9 SCC 1.

the Constitution. It is submitted that the existing provision on attachment grants significant power without any similar safeguards that are available under special legislations like the PMLA, 2002.[34] Firstly, the statute ought to prescribe a period of time beyond which interim attachment order cannot survive, without a final decision. It may otherwise lead to the deprivation of property from the person concerned indefinitely.[35]

The 180 day limit under PMLA is an example of suitable protection. Secondly, provision ought to be made for the restoration and release of the property. In effect, the law only focuses upon attachment and forfeiture of assets. It fails to provide adequate clarity on the steps for restitution and release of the same.[36] Thirdly, it is recommended that the ambit of Section 107 be limited to 'grievous or scheduled offenses involving substantial proceeds' and not the broad spectrum of offenses defined in Bharatiya Nyaya Sanhita to maintain proportionality. It also needs to provide for an explicit appellate mechanism against interim attachment orders for better judicial supervision and to prevent abuse of process for confiscatory actions. Finally, it has been stressed on providing clarity to the law with regard to attachment of genuine third party property and 'untainted assets'**.**[37]

10. Conclusion

Section 107 of Bharatiya Nagarik Suraksha Sanhita, 2023 represents a significant modification in the existing legislative scheme on the attachment of property and proceeds of crime under ordinary criminal procedure in India. The provision attempts to close the existing legislative gap on the recovery, forfeiture and restitution of criminal proceeds, thereby increasing the power of the state to deter offenders from taking benefit out of their criminal enterprise. While the underlying idea of the provision is legitimate and in tune with modern tendencies within the field of criminal jurisprudence where the emphasis is on the eradication of white collar crimes and compensation of the victim; there are several constitutional and procedural issues with the constitutionality and functioning of section 107. Unlike specific legislations like the Prevention of Money Laundering Act, 2002[38] there is lack of necessary procedural safeguards in the said section regarding tenure of attachment, restitution of property, remedies of appeal

[34] Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 107 (India).
[35] M.P. Jain, Indian Constitutional Law 1298–1307 (8th ed. 2018).
[36] Prevention of Money Laundering Act, No. 15 of 2003, §§ 5, 8 (India).
[37] Modern Dental College & Research Centre v. State of Madhya Pradesh, (2016) 7 SCC 353.
[38] Prevention of Money Laundering Act, No. 15 of 2003, §§ 5, 8 (India).

and standard of proportionality.

Power vested in the courts to allow ex-parte interim attachment and to even liquidate the attached property in the pre-trial stage creates a very grave risk of arbitrary deprivation of property and violates the principle of presumption of innocence in the criminal jurisprudence. Moreover, it seems that section 107 will be applicable to all criminal offences under the Bharatiya Nyaya Sanhita thus broadening the scope of state intrusion and the powers cannot be adequately differentiated on the basis of the crime committed or its gravity. In the final analysis, whether sec 107[39] is constitutionally valid will be a question of whether the legislature and courts can successfully strike a balance between a strong power of forfeiture and adherence to the requirements of natural justice, fairness, and the presumption of innocence.[40] However much economic offences and proceeds of crime have to be firmly tackled, constitutional criminal procedure cannot be put to an abrupt halt in the pursuit of efficiency.

[39] Bharatiya Nyaya Sanhita, No. 45 of 2023 (India).
[40] INDIA CONST. arts. 14, 21; Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1.