

CHAPTER- V

VYAVAHĀRAMĀLĀ-GENERAL FEATURES BASED ON TEXT.

Vyavahāramālā is one of the several Sanskrit legal works dealing with rules and laws intended to regulate the conduct of Indian jurisprudence. The valuable features of this work can be obtained from the Smṛties. Students of law will find in this work the earliest and most genuine rules of Hindu law on which they may base their higher studies. Therefore the study of V.M should be beneficial both as a scholarly pursuit and as a guide in certain social and religious aspects concerning the Dharmaśāstrās.

V.M seems possible to identify and take remedies of the problems of Kaliyuga which one is known as the new age. This work contains several liberal rules which stands for modern judiciary system and therefore this study should find ample justification for modern society. V.M deals with the laws

included in Manusmṛti, Yājñavalkyasmṛti, Parāśrasmṛti, Nāradaśmṛti etc. Smṛti literature consists of three Kandas or sections- Acāra, Vyavahāra and Prāyaścitta. Among them Vyavahāra or civil laws are related to the protection of life and property of human society.

V.M is a different work from that of ancient Smṛti writers like Yama, Bṛhaspati, Vyāsa, Kāśyapa, Gārgya etc. The basic idea of V.M is the rules and regulations depending up on ancient Ṛṣi's concept of law for the purpose of regulating the Āryan society in all matters- civil, religious and moral. V.M not only emphasized the duties of every individual as a member of the Āryan society and as a member of the particular class to which one belonged, but also preserved Indian culture and literature.

V.M is a garland, and the flowers are words of great sages like Manu and Yājñavalkya etc, and it is an adornment to the king, when he handled disputes of society.

Benedictory stanza (invocation stanza).

In order to remove hindrances, every poetic composition begins with a benedictory or salutation stanza. In conformity with these, V.M opens with the benedictory stanza invoking the blessings of Lord Narasiṃha:

“Oh! Lord Narasiṃha- Thou who showers bliss upon His devotees, who has no birth (eternal), who has many incarnations for the sake of the world, who created this world and is maintaining and demolishing it, bestow upon us the highest bliss.”

I. General features of court procedure.

During the reign of kings like Manu, people, discarding Adharma were dutiful and hardworking and kept themselves away from pride and anger. As a result, there was no vyavahāra during this period. But unfortunately, in the following periods the value of Dharma lost its prominence and so vyavahara came into force¹. It was the king who had the sovereign authority to

¹ V.M- page-1, Vīramitrōdaya-Vyavahāraprakāśa- page-4

determine vyavahāra and to give punishments to those people who did injustice.

Vyavahāra was determined in accordance with the conditions and groups of people, such as-tribes, relatives, srēṇis, joint partners, courtiers, scholars, authorities, president etc which were the disputing authorities in the court. Ultimately the King was the supreme power in vyavahāra. In the vyavahāra sabhā determined the non suits then the judgement was given by the courtiers influenced by- by love or affection, anger or fear. vyavahāra sabhā pronounced punishments in accordance with the nature and severity of crimes.

Brāhmaṇa should enter the court with humility and should use good words, otherwise the king would consider it Adharma and then he would be a sinner. The courtiers should also be humble and use good words, evil things should also occur to the king. Some times the cruel people came to the court and made arguments in favour of Adharma using the rational thinking, then the evil things would happen to the same

people. Justice should be maintained in the Nyāya-mārga in the court procedure. Trial was not allowed without the permission of the chief justice. In the absence of the chief, court proceedings; can be conducted under the responsibility of the king. Partiality should be avoided. Brāhmaṇa who was appointed to conduct the court procedure; should know the Dharma-mārga. The court must include the old men and truth full fellows. Otherwise it was not considered as a court. Vyavahāra or dispute must be truthful, otherwise it was not considered as vyavahāra. Those who accepted the bribes should be removed from duties of court proceedings. The persons who belonged to Pāṣaṇḍi religions, the persons who admire the joint ventures, traders, social workers, artisans etc could take self determination on the vyavahāra with the help of court. The determination should be attached according to their own caste and tribe. Those who neglected the the Rāga and Dwēṣa, Kāma and Krōdha from their life and followed the Dharma and truth could attain the Yajñaphalam or result of Yāga.

Those who attained the truth, was considered as god. Those who could not attained the truth was considered as a human being. So it was considered that those who were keeping the truth all over their life, they should be equal to God and others were to be de-graded as only a human being. Manu says: The king, who is eager to hear the vyavahāra or dispute should enter the court with humility along with the Brāhmins and scholars of high intellect². Yāj States the manner the trials should be conducted in the court. The judge was to sit in the court wearing good ornaments and dress, without exposing the right hand and should hear the grievances of the concerned³.

Eighteen types of trials are mentioned in V.M on the basis of the prevailing justice(Nyāya) along with the juristic concepts of Dharmaśāstrās. As the trial commenced, the king had to sit in the dharmāsana position, wearing his shawl (Uttariya) as pūṇūl and after giving salutation to Lōkapālākās

² Vyavahāra Mayūkha-page-2, Vīramtrōdaya-Vyavahāra prakāśa-page-9.

³ Ibid-page-2, Ibid-page-9.

(protectors of the world) he should hear the trial⁴. The Dharmamārga of vyavahāra is determined by considering minute factors such as following a wounded deer in hunting by following its marks of blood.

Kāt says The effect of holding trials based on the Dharmamārga of kings is like this- when the king hears the trial in the presence of the judge, known as Prādvivākan, priests, courtiers and audience, would be able to enjoy worldly pleasures and would be able to secure his position in heaven⁵. The king should not indulge in deeds which are against Dharmaśāstrās and Vedic principles, and also should not indulge in cruelty to animals.

Nār Says, King has to determine the law dispute (Vyavahāranīti) on the basis of the principles of Dharmaśāstrās and Arthaśāstra and should examine them in conformity with the same. The appropriate time meant for hearing vyavahāra or

⁴ Ibid- Vyavaharadarsana vidhi-page-9

⁵ Vyavaharamayukha-page-2.

dispute is from the sun rise after the completion of 3 and $\frac{3}{4}$ Nāzhika till 15 Nazhika in the morning⁶.

Duties of chief justice.

Manu says - when the king has no time to do royal duties (Rajakārya), he should appoint a Brāhmin for the same, who is well versed in the Vedaśāstrās and prevailing customs of the society. The Brāhmin, along with three other courtiers should enter the court, sit, and classify vyavahāra by differentiating it into sections, which had to be actually illustrated by the king. The three courtiers must have good knowledge in Vedaśāstrās. If there is no Brāhmaṇa to hear the trial in place of the king, then a Kṣatriya having good knowledge in Dharmaśāstrās should be appointed. As in the case of non availability of Kṣatriya, two Vyśyās can be appointed. But a Śudra is not allowed to be appointed in the post of royal duties.

⁶ Veeramitrodayasya Vyavaharaprakasah-page-21

Qualification of a justice.

Brh. says: The word ‘prāḍvivāka’ is derived from two terms – ‘prāḍ’ and ‘vivāka’; where the first term ‘prāḍ’ signifies asking questions gently and receiving answers at the time of trial, where as the later implies the procedure of verification through the questions⁷. Just like doctors take out the poison from the body (which may be from arrows) with their equipments and intellect; injustice should be determined by vyavahāra or dispute and thus Dharma should be maintained discarding Adharma⁸.

There is a belief that if the king discarding Brāhmaṇa, appoints a Śūdra and hears the trial along with them, the king would lose his army and capital, and the kingdom will have to meet with destruction. For this very reason, Brāhmaṇa should be appointed in the court.

⁷ Vyavahāramayūkha-page-2; vēśramitrōdaya Vyavahāraprakāśah-page-24

⁸ Vēśramaitrōdayasya Vyavahāraprakāśah-prāḍvivākalakṣhaṇa-page-24

The construction of the court.

The method of the construction of the court, where the vyavahāra is to be held is mentioned thus: A fort must be constructed in plain land with a house in the centre. There should be a door to the house in the eastern part. In the surroundings of the house, there should be trees and water sources⁹. The court should possess garlands, sacred smoke, seats, seeds, germs, idol of gods, pictures, fire and water. The courts consist of four types such as Pratiṣṭita, Cāla, Mudrita, and Śāsita. Courtiers are also four types. The determining courts of villages and towns are known as Pratiṣṭita. If the trial is held in different places (movable court) it is called cāla. If the hearing is apart from the king (remote) it is called Mudrita. If it is along with the king, it is called Śāsita.

A court comprises of ten members. The court, along with the ten members was called Yajñasabhā. They are king, presiding officer (Adhyakṣa), Dharmasāstrās, courtiers,

⁹ Vyavahāramayūkha – page-2.

accountant, Rāyasakkāra, Gold, Fire, Water and Harikkārās. These ten members are described as the parts of a male body. i.e. Head as the king, face as president (Adhyakṣa), hands as courtiers, palms as Dharmaśāstrās, thigh as accountant and Rāyasakkārās, eyes as gold, fire and water, legs as Harikkārās.

Courtiers analyse the legal matters. Adhyakṣa investigates into the pros and cons of the matter while the King reprimands. The judgment of vyavahāra was to be determined on the basis of Dharmaśāstra. Gold and fire were provided for taking oath and water was provided for those who were tired and thirsty. An accountant was necessary to calculate the amount of Dravya. The Rāyasakkāra was to write down the answers while the Harikkāra was to bring in the plaintiff, defendant and witnesses to the court and provide them with enough food. The above mentioned were the duties of the ten members of the court.

Brh. praised the above mentioned court – if three or five or seven Brāhmaṇās having good knowledge in D.S and Vedas

are sitting in court, that court will be equaled to Yāgasabhā (the members of Brāhmaṇās should not be less than three). Yājñ Says, the courtiers should have deep knowledge in Vedaśāstra, the principles of Dharma and Vedaṅgās, they should stand for truth and they should not practice discriminations between friends and enemies. The courtiers with the ideology of Dharma must be able enough to do the Vyavahāra. The verdict of the king was to be final.

When the trial proceedings started, the client and defendant were not allowed to discuss secretly. If the chief justice did so, he would deserve punishment. In the same manner, the courtiers were also subjected to punishments. Those who were ignorant about the customs in the country, those who were impious, mad, cruel diseased and those who had great desire to acquire money were not to be appointed as courtiers. When the king unfortunately becomes unjust, the courtiers should make the king realize his faults and lead him to the way of Dharmamārga.

Legal proceedings - The origin and development of Vyavahāra.

The distruction of Dharma due to Rāga and Dvēṣa, would create contradictory thoughts in the human mind and this intern would cause disputes or vyavahārās. The Vyavahāra is derived from three terms- Vi, Ava, and Hara. Here Vi implies the meaning ‘large amount of’, Ava means ‘doubt’ and Hara implies the process of removal of the problems and clear the doubts. Thus vyavahāra stands for the process of removing various doubts¹⁰.

Nār says- Vyavahāra has four Padās every one occupies four positions. The things which bring down the attainment of vyavahāra (Vyavahārasidhi) consist of four padās. The vyavahārās includes four merits also. Vyavahāra will be favorable to four classes – Brāhmanās, Kṣatriyās, Vyśyās and Śūdrās¹¹.

¹⁰ Smṛticīnṭhāmany-page-2 ; Vīramithrōdaya-Vyavahāraprakāśah-page-5

¹¹ Vīramithrōdaya- Vyavahāraprakāśah-page-5

Again vyavahāra may occur due to four reasons. Terms of complaints consist of two (ways) Mārgās, eight Angās, eighteen Padās and hundred branches. The four different varieties of Padās are Dharma, Vyavahāra, Ācarita, and Rājyaśāsana (Royal reprimand). Vyavahāra are destined by Dharmaśāstrās which are eligible for trial. The position (Sthāna) of Dharma is truth. The position if vyavahāra is witness or sāksy. Ācarita stands for the customs of different classes mentioned in particular grandhās, Rājyaśāsana implies royal reprimand¹². Vyavahāra has two methods, one of them is Satyamārga and other is Asathyamārga. These two methods considered the plaintiff and defendants equal participation in vyavahāra.

The positions of Padās are follows as - Dharma, Vyavahāra, carita and Rajyaśāsana. The positions of pada are truth, plaintiff, books (Grandhās) and orders of king respectively. Since Vyavahāra is the result of Sāma, Dāna,

¹² Vyavahāramayūkha-page-8

Bhēda and Daṇḍa, it is called *ĉadusādhana*. Vyavahāra is said to be protecting of the four Varnās. Classes and sub-classes originated from these *Āaturvarṇya*. Besides, vyavahāra consist of four Upāyās such as *Sāmōpāya*, *Dānōpāya*, *Bhēdōpāya* and *Daṇḍōpāya*. Speaking gentle words is called *Sāmōpāya*, the offerings of Dravya is called *Dānōpāya*, instilling intellectual power is called *Bhēdōpāya* and giving punishment is called *Daṇḍōpāya*. *Prāḍvivāda* should record all the statements of plaintiff given before a court of law, in palm leaves and later in a slab or wall.

This Vyavahāra is concerned with four persons such as doer (*Karthā*), plaintiff, courtiers and king. King has four virtues due to vyavahāra- Dharma, Artha (wealth) *Kīrthi* (fame) and *lōkānugraha* (grace of the world).

Kāma (desire), *Krōdha* (Anger) and *Mōha* (*Ajñāna*) are the three reasons for vyavahāra. *Kāma* originates due to lust for females, *Krōdha* (Anger) due to self pride or *Ahaṁkāra*, *Mōha* as a result of *Ajñāna* or ignorance. The other two categories of

Yōga include Śaṅkābhiyōga and Thatvābhiyōga. Śaṅkābhiyōga occurs when the criminal is not clearly determined and the person is living as the suspected thief. If the theft is proved by finding out swags, it is called Thatvābhiyōga.

There are eight constituent parts in vyavahāra such as King, Courtiers, Harikkārās, Śātrās, Gaṇaka and Mathematician (Gaṇakalēkhakās), gold, fire and water. There are eighteen Padās for Vyavahāra. Among these five of them are Rṇādāna, Upanidhi, and Sambhūyasthāna, Dathādāna, and Abhyubētyā śuśrūṣa. The lending and borrowing of money comes under Rṇādāna. Wealth deposit comes under Upanidhi. Joint venture comes under Sambhūyasamuthāna or partnership business. Alms-deed is called Dathādāna. Quarreling for remuneration by remaining idle is called Abhyupētyāśuśrūṣā.

The other four Padās include Vēdanānapākarma, Aswāmivikraya, Vikriyāsampradāna and Crītvanuśaya. The person who has done work should be rewarded suitably. But, denial of such payments to the person concerned is

Vēdanānapākarma. Handing over the property without permission of the owner is known as Aswāmivikraya. If the possessions are sold with the consent of its owner without receiving the full amount - and if the owner claims his possessions back it is, Vikriyāsampradāna. If the person who purchased the possessions demanded his money giving back the property, it is Crītvānuśaya.

The next five padas include Samayānapākarma, Kṣēthrajavivāda, Dāyābhāga, Sāhasa and Strīpumsabandha. If anyone violates the customs and practices of his/her village he/she would have to repent on his deeds, such controversy is called Samayānapākarma. The controversy regarding subjects like land and residence is called Kṣēthrajavivāda. Partition of wealth is called Dāyābhāga. Sāhasa implies the act of theft and other mischievous activities. Strīpumsabandha (Stripumsabandha) is the controversies concerning the Dharma of male and female.

The four other Padas include Vākpāryśya, Daṇḍapāruśya, Dyūta and Prakīrṇaka. The Vākpāryśya, vyavahāra is quarreling or saying harsh words. Daṇḍapāruśya is assault and Dyūta is gambling . All those cases which are not mentioned comes under Prakīrṇaka. As V.M.says vyavahārās are totally eighteen¹³.

In the above mentioned eighteen Padas Vākpāruśya, Daṇḍapāruśya, lust and murdering are considered to be the deeds of violence. All other fourteen Padās are dealt with wealth. Apart from the above mentioned eighteen Padās there are 108 Padās and 100 branches. These eighteen Padās contained ways of Vyavahāra.

Vyavahārās equal to Yāgās.

The position of Vyavahāra is considered equal to Yāga. In Yāga Cow, Ājyam, Havis, Masters which are provided by Brāhmanās and R̥tviks; King, Plaintiff, Defendant, Courtiers etc determine Vyavahāra. As the person giving salutation in Yajña

¹³ Veerāmitrōdayasya Vyavaharaprakāśah-page-5-6 ; V.M. page -5

get the position equal to lord Viṣṇu, the person performing vyavahāra gets the position of the king. One who does Yāga, he is the Master, who made success in vyavahāra is called the Master or Yajamāna. In the Yāga the cow killed is known as Aja. In vyavahāra the person who lost his own arguments, is equal to the position of the cow, which one is killed in Yāga.

The Ājyam in Yajña is Ghee, it is equal to the answers of plaintiff and defendant of vyavahāra. The vyavahāra and yāga are equal in the court. The Havis of the Yāga is the stomach of the cow. Such as the oath of vyavahāra is equal to Havis of Vyavahāra-Yāga. In Yāga the Vedavākyās are the Mantrās, in Vyavahāra this position is held by Chanting Dharmaśāstrās. In Yāga the Master and Brāhmaṇās are Ṛtviks as in vyavahāra, Śāstries in the court, are Ṛtviks. The Alms-deed to Brāhmaṇās are considered as Dakṣina and in vyavahāra those things or money that are given are considered as a sign of Prāyaścitta (repentance).

Brāhmaṇa is appointed to supervise the pros and cons in Yāga; where as in vyavahāra, the accountant and Rāyasakkāra are appointed. due to the above mentioned points, vyavahāra equals to Yāga. As the king is the sole authority to determine the final decision in vyavahāra, he may enjoy the results of Yajña.

The filing of non-suit in the court.

According the principles of the prevailing customs and Śāstrās of the society, if anybody was insulted, he can approach chief justice or king to explain his conditions and sorrows and the incidents would be subjected to vyavahāra. Manu says the king is entitled to hear the vyavahāra and is not allowed to sit idle. Chief justice has to point out the statements of plaintiff either on floor or board with the chalk at the very time itself. Later on correcting it he has to write it in palm leaves.

One who submits the non-suit, the Plaintiff has to confess the matter by giving the facts or legal documents and thus explain his part in the case. Later on defendant has to be called to the court and he should be given a chance to explain his part

in the same. If the plaintiff and defendant are explaining false things, both of them are liable to be punished. If by deceiving the king, the plaintiff and defendant settle disputes making amiable relations among themselves and the king came to know about it both of them have to pay the double amount of the fine at the commencements of the trial.

The chief justice has to enter the court and receive the non-suit with politeness and has to ask questions very slowly. The chief justice has to hear the sorrows of plaintiff and defendant, with his intuition. As mentioned above, the chief justice has to hear the sorrows of plaintiff and by calling defendant he should trial the case. In order to explain the part of plaintiff, a duel leaflet signed by the chief justice should be sent to the defendant through a Sepoy. After receiving the message defendant has to present in the court, otherwise he would be punished. The fine charged as punishment varies in accordance with the severity of crimes. for small crimes 50 Pana, for

medium crimes 200 Paṇa and for the mighty crimes 500 Paṇa will be charged.

The things which are not eligible for pleadings.(pakṣābhāsa lakṣaṇa).

The complaints made by dependent persons, the complaints which are not natural, the complaints made by outcastes etc are not fit for trial. The complaints made by drunkards, lunatics, diseased persons, pessimistic person, the boys below the age of sixteen and old above eighty are not taken into account. Certain cases, the complaints such as between master and servant, teacher and student, father and mother, husband and wife are not eligible for the trial. On other hand in certain circumstances, by taking the seriousness of the matter, the trial will be proceeded. For example, in the cases of physical torture of the student by the master and the complaint of the student in the court, the son sells the property in unlawful manner and the father complaining it in the court, the husband even after receiving dowry, tortures wife and the wife

approaching the court afflicted with sorrow, the denial of salary to the workers after doing jobs etc should be taken into consideration and the culprits should be legally punished.

If many people complaints together, on a number of suits, against a person, the court would not consider the case. The complaints for the each topic should be given separately, for the case to be considered. The complaints by aristocratic Virgil or complaints without the order of master are not taken into consideration for trial.

There are six types of Pakṣābhāsa, – Aprasidha, Nirābādha, Nirarthaka, Niṣprayōjana, Asādhya and Virudha. The cases which are not eligible for trial are the following - not famous or not well known (Aprasidha), not affected (Nirābādha), meaningless (Nirarthaka), impossible (Asādhya), creating controversy (Virudha) useless(Niṣprayōjana). For instance, if one complaints 'my bow made by the horn of hare has been stolen by another' is an example of Aprasidha. If one complaints that 'with the light of my lamp another person is

eating food' is Nirābādha. The case of 'uttering meaningless words' comes under Nirarthaka. If 'he laughed at me looking through the corners of his eyes' is Niṣprayōjana, 'a dumb abused me' is Virudha, 'I must get the moon' is Asādhyā. The above mentioned six types of complaints must be avoided.

Arrest and taking into custody by the king's order.

(Āsēdhaprakaraṇa)

Taking into custody by the direct order of the king is known as Āsēdhaprakaraṇa. The defendant is liable to imprisonment due to refusal of the fine which is demanded by plaintiff, then the king takes him into custody.

Arrest and custody are of four types. (1) He is not allowed to leave his locality still the king's further order. (2) Depromotion from the position one occupies. (3) For a prescribe period he is not allowed to leave his locality. (4) Suspension. The matters in which imprisonment can be curtailed by the king are as follows. The plaintiff can refuse the land and house of the defendant, if the defendant speaks injustice. Sometimes one who

trespasses, will not deserve punishment. When one crosses the border river, when one is attacked by robbers, when the kingdom is attacked by enemies, defending themselves on such situation is not punishable. The person below the age of sixteen, messenger, the person doing fasting etc should be exempted from punishment. In the same manner, women who has just given birth to her child, the children below the age of ten etc are not allowed to be brought for vyavahāra. After reducing the punishment of client by the king he will not be reimprisoned by the court. If he is punished by the court and re-admitted in to the jail, the justice has to pay the fine to the court. A betrothed groom, a patient, a yōgi, a grief-stricken person and a client are not allowed to be sent to the jail. Farmers, shepeards, artisans, soldiers also do not deserve the imprisonment.

Those who are riding on elephant, horse, chariot, or traveling by boat etc should not be given imprisonment. Those who commands others not to open their eyes, not to breath, not to take food in time etc, are compelled to pay fine. Those who

administered the family as a dictator, the women those who lead the independent life, drabbiness, murders etc must deserve the punishment.

To appoint a proxy (Puruṣānthara niyōga vidhi).

Haritha says, in vyavahāra, anybody can complain his own problems in the court. The litigation between father and son, or between elder brother and younger brother etc can be the subjects in vyavahāra. If there is no time and ability to hear the case, he can appoint a proxy in person.

Nār. says, in the case of any hindrance to plaintiff or defendant, he can appoint another person by giving authorization. Brh says, on the other hand, in case of theft, in the case of murder and in the usage of liquor no proxy can be appointed. It is imperative that the incumbent itself should be traileed. These types of people should be provided with vehicles to arrive at court by considering time and distance. If the plaintiff and defendant go away by deceiving the court, any person related to him should be kept in custody and should

continue the case. The Brāhmanās and Kṣatriyās without bail should be given place in lockup and they should be kept without chain. Only Śūdrās are chained. If Brāhmanās, Kṣatriyās, Vyśyās and Śūdrās – Āthurvāṇyās submit complaints in the court the order of considering the complaints would be such as, first hear the case of Brāhmanās, then Kṣatriyās, later Vyśyās and lastly Śūdrās; in the same manner, the Dharma and Adharma, Gurutwa and Laghutwa of the cases can be determined. In the court the plaintiff has to write down the complaint including date, year, month etc after the arrival of defendant. Thus, complaints would be filed on the basis of the will and the documents submitted by the defendant.

The sipoy must protect the plaintiff and defendant in the lack of a power full bail. The court pays the daily expense of sipoy. When the client escaped from the custody of sipoy, he should pay the fine of eight paṇas to the court.

Bhāṣōthara pāda nirūpaṇam. (The methods of court procedure).

The plaintiff and defendant should write down the following details on the documents kept in a file of the court. They are details of their house, place, time, the name of neighbors, the name of ancestors and the name of kings etc. After determining the name and place of the claims in boundary dispute price of that landed area should be calculated. The court will decide the importance of cases according to the depth, gravity and necessity and court procedures will be carried on accordingly.

Complaints are four of types, Such as the complaints due to the suspicious complaints, the complaints after seeing the swags, complaints which are repeated even after settlement, complaints regarding the matter of money.

They can not be trialed if there is no accuracy in the documents: such as time, place, amount, material, evidence etc, the vyavahāra is not valid. If the plaintiff felt as courageless or unknown of court procedure and he is allowed the time to

submit the right details of the case then the court may grant a holiday for the trial.

Brh says, The plaintiffs can also complaint before the defendant. Complaints can be noted on floor or marble stone and after verification, it can be written on a palm leaf. The plaintiff and defendant have to write their complaints after perusal. The court may grant leave for hearing the affidavits of the plaintiff. On the basis of the period and the place, the court may grant leave for trailing. It may be extended from one month to one year. The court has to find out the real fact of the case, if one says that anybody demands, with false information, to get a lot of money from someone, the court must find out the real fact of the case with scrutiny of evidences and determined genuviness of the case.

Nār says, a plaintiff states that he is robbed, without writing on palm leaves, then the defendant can refuse it arguing that he has not written on palm leaves and this argument will be considered, and the case will be dismissed. The defendant can

scrutinize the statement of plaintiff and can forward the pleadings. Then it is not be able to re-scrutinize the statement of plaintiff.

So the plaintiff can urge that all documents and evidences must be prepared before the pleading of the defendant. The defendant must write the pleadings with full care and scrutinize the statements and evidence. If defendant is unknown of court procedure or afraid of court, he can demand to postpone the case, and it will be applicable to both defendant and plaintiff.

The occasions in which the leave can not be granted to the defendant are – theft, quarrel, confront, murder and so on. The defendant is allowed to answer only for those questions connected with the matter contained in the written complaints. Nār Says, the way in which the defendant has to write the answer is – the matters which do not pave the way for suspicion and will not be defective, a delaying the procedure of the court.

The reply of the defendant may be four types, Mithyōtharam, Sathyōtharam, Prathyavaskandanōtharam and

Prāṅgnyāyōtharam. The claim of the arguments of plaintiff as true is Sathyōtharam. The claim of plaintiff's argument as mithya and not truth is mithyōtharam, the claim of the arguments of plaintiff as those of not existence and matters have ended before, it is prāṅgnyayōtharam and lastly, the claim that both of them had already implemented the things are given by plaintiff comes under prathyavaskandanōtharam.

The Mithyōthara – When the answers given by the defendant are not true. They are four types . 1. Every thing written by the plaintiff is wrong. 2. The statement beyond criticism at the time of incident. 3. The plaintiff's statement that nothing happened at that time. 4. Refusal of plaintiff argument after hearing. The vyavahāra will come to an end as per the above mentioned four Padas, if the defendant writes mityōthara and pratyavaskandanōtharm. If it is sathyōthara the vyavahāra will be concluded by two padas. If he writes prāṅgnyāyōthara, the vyavahāra will come to end in three padas. After completing

vyavahāra, Jayapatra should be written. Jayapatra implies the finalization of the cases.

Uttarābhāsa sañjna.

In a dispute when plaintiff and defendant file suits related to money matters, in the court and when they themselves give doubtful matters then a commission is appointed to enquire. This is known as Uttarābhāsa. Conflicts on money matters using harsh words and giving false truths also mean uttarābhāsa. When one borrows money, cloth and wheat from another and when borrower denies this fact, and if anyone provides evidence then this leads to disputes. When a suit more complaints are filed in the court at the same time, then the court will sort out the complaints separately, and the final decision will be made according to each object. For right decisions two things are needed- written documents and witness. In the court witness should not change their words. In vākpāruṣya, daṇḍapāruṣya and sāhasa plaintiff and defendant will have to pay fine if they cannot win the case. When the defendant submits his own

affidavit with great eagerness, then the court applies certain upāyas like Sāmōpāya, Bhēdōpāya or Daṇḍōpāya. The questioning or asking direct questions, is Sāmōpāya. Asking or applying intellectual questions is Bhēdōpāya and punishing such as putting in jail, beating and imposing fine etc are Daṇḍōpāya. The defendant who is subjected to any of these three upāyās, has to submit the affidavit in the court. When the plaintiff and defendant refuse to obey these upāyās, later they are asked to be present in the court and asked to write their own views. If plaintiff submits his views in writing and defendant does not do so, then the court may reach at the final decision that the plaintiff has won that case against defendant and the defendant has to pay fine.

If plaintiff or defendant forget to mention any matter in their affidavit then they will not be given any chance later. While, before writing and submitting the affidavit the plaintiff and defendant can add their views. Certain people are not entitled to submit the written affidavits such as mad people,

people using liquor, out caste people, murderer's, old people, blind people, people without intellectual powers, noble women(Antharjanās), people below the age of sixteen etc.

Bhaṣāpāda, utharapāda, kriyāpāda and thatsidhipāda are the four varieties of pāda. Apart from these some are considered pratyakalithapāda as a variety, which is not usually suitable for vyavahāra. so it is not considered in vyavahāra and it is eliminated. Bhaṣāpāda is the one in which the plaintiff writes down nature of the complaint including date, year, month etc when the case is filed. The way in which the answers written by the defendant is utharapāda. Thatsidhipāda is the one in which the case is considered true or false on the basis of documents such as will or witness.

When the plaintiff submits Satyōthara and the defendant submits Mityōthara, then the plaintiffs argument is invalid. Both of them should submit Pratyavaskandanōthara including the reasons. When they submit Prāṅgnyāyōthara the judgment should be in accordance with the Jayapatra. In a dispute the

above mentioned four types are used. If mithyōthara and Prathyavaskandanōthara mingled, then the important category should be analysed by the judge.

Among the Mithyōthara and Kāraṇōthara; Kāraṇōthara should be trailed first. In the same way in case of Prāṅ^{nyāyō}nyayōthara and Sathyōthara, first Prāṅnyayōthara should be taken into consideration. This should be trailed on the basis of written documents. The justice has to consider these five things- mithyōthara, satyōthara, kāraṇōthara, prāṅnyāyōthara and pratyavaskandanōthara finding out the answers with reasoning power.

Identification of the cruel persons should be made on the basis of the shape, their motives, their walking style, expression of the face, action by hands, legs and eyes and their movements. Incapable persons are those who do not answer to questions, who takes over time to answer, who never gives any word who denies every thing, who gives un oriented answers to certain

questions, and people who hides themselves from the community.

Yāj says the bad signs include the act of walking without standing at the particular position, the tongue touching the end position of the mouth, sweating on forehead, awkward expressions of face etc.

In the case of wrinkling the forehead at the time of asking questions, saying a lot of things which are unnecessary, trembling of lips, answering without looking into the face etc are the things done by cruel and those who stand for wrong things.

Compromise (Sandhi prakaraṇa).

In the case of unsettling disputes even after writing down the answers by plaintiff and defendant, both of them have to settle the case amiably and it is known as Sandhi – compromise. This is just like joining two iron rods when they are hot. The compromise should be made on the basis of the words of plaintiff and defendant, according to the written documents and

also D.S. According to above mentioned matters the compromise should be impartial.

Evidence collection (Kriyāpāda).

The evidence should be collected after knowing the answers of plaintiff and defendant on the light of written documents and witnesses. Kāt mentions about Sādhyasādhana. The matter-complaint by plaintiff is Sādhyā, where as the matters by which Sādhyā is acquired is called Sādhana.

In the same manner, if there is deficiency in the collection of evidence, they will be nullified. The trial is nullified if the documents are not produced at the time of questioning and answering sessions. Even though they are presented after the session, they are not being considered. The documents produced at the improper time are useless as the crops become useless due to rain at the wrong time, Yāj says when the documents are trialed with proof and it has positive result it shows success otherwise the lack of producing evidence at the time of the trial it happens like a effect-less condition.

Brh. mentions: documents are of two types – Divya Pramāṇa and Mānuṣa Pramāṇa. Sages say that each of this has many categories. Brh. mentions Mānuṣa Pramāṇa is divided into three divisions – Sākṣi, Likhitha and Anubhava. Divya Pramāṇa is divided into nine categories. These are truthful.

Witness are twelve types, written documents are ten types, experiences are of two types, Divya Pramāṇa are of nine types, these are the other varieties of Pramāṇas. Vyāsa mentions the Kāryasidhi (result) can be determined on the basis of experience even though there are not any written documents. Yāj says among Pramāṇa, the first one is the Lēkhya (written documents), second one is Anubhava (experience) and third one is sākṣi (witness). If there is lack of the above mentioned three Pramāṇās the Divyapramāṇa should be considered. Nār says that d Divyapramāṇa will not be considered in the cases which happens in day or in village or towns.

Kāt says Mānuṣa Pramāṇa should be determined in the case where among plaintiff and defendant are arguing for

written Sākṣyādi pramāṇa and others. Divya Pramāṇa should not be considered for the above mentioned matters. If one determine Mānuṣa Pramāṇa for considering such vyavahāra it should only be considered. For example even after lending money to one person, the concerned borrower denies it and if there are witnesses, the plaintiff can trial the case with the help of witness. If there is witnesses on the part of plaintiff, the case will be settled.

In the case of disputes regarding way (road), even though there are no written documents or witnesses, Anubhava Pramāṇa should be used. This (Anubhava Pramāṇa) is more effective than written documents, even if there is written documents which states that he has bought the land for the way or the the road. Apart from that, if there are witnesses, their words can be taken into consideration and the case can be settled.

In civil law, 'Divya Pramāṇa' is not allowed in cases of vyavahara concerned with land and quarreling . If there is no Mānuṣa Pramāṇa in the cases of theft, taking of things by force

etc Divya Pramāṇa should be taken into consideration. In vākpāruṣya and daṇḍapāruṣya, mānuṣa pramāṇa should not be considered, but Divya pramāṇa should be taken in to consideration.

The matter should be determined by taking one of the varieties of Divya pramāṇa . If there is no written document, witness and experience will come to help to determine the case. Similarly king should determine the matters of great sin on the basis of complaints and witnesses. In the matters concerning social disputes, the written documents in palm leaf should be given more consideration than witnesses and Divya pramāṇa Lēkhyam (written statements), Sākṣi (witness) would not be taken as pramāṇa .

Vyāsa says the matters are two types, those are Aprakāśa (secrecy) and Prakāśa (open or public). Here, the matters with secrecy should be determined by Divya pramāṇa and the public matters should be determined with witnesses and pramāṇas.

If there is suspicious case of written documents, witnesses and experience; will be accepted in the Divya pramāṇa and the case should be settled. Nār says, In the incidents of robbery, theft etc occurred in any lonely places like forest and at night should be considered by the Divya pramāṇa. Divya pramāṇa should be taken into consideration if witnesses are equal on both sides in the case regarding murder. If plaintiff takes Divya pramāṇa even though there are witness's questions should not be asked to them about the same incidents, the matter should be determined on the basis of Divya pramāṇa. For e.g. if defendant denies the document written with name and place by plaintiff, Divya pramāṇa should be taken and thus the matter should be determined.

Witness (sākṣi nirūpaṇa).

If there are doubts regarding the matters of vyavahāra between plaintiff and defendant the case should be determined on the basis of witnesses who listen and view the trial.

Who is witness? The one who sees with his eyes and hears with his ears, is a witness. Witnesses are of two types. The one who is written in lēkhya or statement is Kṛtasākṣi, other one who is not written in lēkhya is Akṛtasākṣi. Brh says, the twelve types of witnesses are Likhita, Lēkhita, Gūḍa, Smāritha, Kulya Dūtaka, Yādṛcika, Uthara, Kāryamadhyagatha, King, Adyakṣa and Grāmajanah. One who writes his own name, with caste and his house name and statement in Lēkya, 'I am the witness' is called Likhithasākṣy. If two persons have decided the case and the nearby person is called on and if he says 'I am the witness' and he writes his own name that is Lēkhitasākṣi. Gūḍasākṣi is one who hears the act crimes such as borrowing money, hiding behind the wall and claims what was heard is true. Smārithan is one who reminds again and again that he is the witness for buying and selling in front of the one who sees the act. One who sees the act. One who participate in the partition deeds and act as intermediary between the two and act as Dharmajña becomes Kulyasākṣy. One who is listening to the matters and is called up

on to say witness, he approves the both party in assembly, and he is Dūtaka. On the occasion of the trial between the plaintiff and defendant if one is called up on by chance to say witness, he is called Yādr̥ścikasākṣi. If the original witness is facing absence due to threat of death or exile and he authorizes another to say his part, he is called Utharasākṣi.

Even after hearing the parts of plaintiff and defendant, the witness conceal the real fact in his mind, he is considered as Kāryamadhyaka. The king even after hearing and acting as witness and settles the dispute and the dispute arise again, king himself should be the witness. Chief justice is becoming witness like this : even after settling Vyavahāra in front of the courtiers, in case a dispute arises for the same, chief justice becomes the witness. Villagers become witness in the boundary disputes about land, house etc.

The witness's number should be between seven or nine. Veda Śāstrās should be taken as supreme evidence. No witness should be taken as supreme evidence. Plaintiff and defendant

can trial only the persons who know Dharma. Nār says, there is no particular time for crossing witness. Any sort of questions can be asked to witness. Witness can express his evidence even if he is old or before his memory is lost. People incapable for being witness are as follows- saints, old aged-persons, priests thieves, adventures people, betting and gambling poeple, cruel people cheaters, people delivering false truths etc. In courts, witness should not change their words. Witness should only be brought to the court with the permission of plaintiff and defendant. According to the above mentioned persons coming forward expressing willingness to be the witness is known as suci or swayamuktan, as mentioned in Veda Śāstrās. People unfit for witnesses are women, children, old people, cheaters, dancers, deaf people, blind people, pāṣaṇḍi mathās and people delivering untruth etc even if no witness is available, people belonging to above, should not be taken.

The good qualities of witness.

Those who give alms, good aristocratic people, those who are truthful, those who possess Dharmabudhi, innocent, those who have children, and those who possess wealth are good witnesses. Those who belong to the same castes and experts in Veda Śāstrās are also qualified. The above mentioned qualified persons are considered for sākṣi. In case of ladies, ladies themselves, for Brāhmaṇās, Brāhmaṇās themselves, for Kṣatriya, kṣatriya themselves, for Śūdrās, Śūdrās themselves and for downtrodden, downtrodden themselves are best to be witnesses.

Persons unfit-for witness.

Nār says those who are not ready for witness, are not obeying Dharmaśāstras. More over they are very much interested in cruelties etc. They are not deserving Mōkṣa. According to D.S five types of people are not deserved to be as witness - those who do not obey D.S, cruel doers, those who are do not obey judiciary, saints and those who reached the other

world. Besides it should be. Secularists, thieves, those who go to brothel house, treacherous persons, and untruthful persons should not go to the court. Witness should not change their will. The plaintiff and defendant should not declare themselves as witnesses.

Brh says- At the time of trial, when witness is trialed, the defects should be pointed out by the opponent and should be declared evil witness – Duṣṭasākṣi - the court should impose fine in case the defects are seen for the witness. Like this the defects should be written on the palm-leaf and should be examined whether it is true or not . then only fine should be imposed.

During lending and borrowing, witnesses are taken to court only after examining. Witness should not be examined of sāhasa prakaraṇa. Final decision should not be delayed by the court after receiving the witness's words.

Like this the defects of the witness noted by the defendant and plaintiff should be discussed in the important trial. Otherwise, the defendant can not show the defects of

witness. Then defendant should have to pay the fine. Chief justice should trial the case in front of the general assembly according to the decision of plaintiff and defendant. One who says the truth will be granted life long prosperity in this world. The above mentioned factors of the witness then the chief justice can impose fine on evil witnesses of both the plaintiff and defendant. When dispute involves some suspicion or doubt, then decision should be taken according to Divya pramāṇa.

At the time of the trial chief justice cross question witness. If some misunderstanding is made by the witness, then the chief justice may suggest the fine of 250 Paṇa. Everybody should assemble in the court for the trial and witnesses have to take pledge before the chief justice. Prāḍvivāka should trial the witness according to D.S. The chief justice should trial the witness in front of the Brāhmanās and Dēvas, turning to the east.

Prāḍvivāka should start the trial in the middle of the court, with the presence of plaintiff and defendant. The witnesses have to take oath and start the trial. Chief justice trails

the client in front of the plaintiff, the defendant and witnesses according to the Nyāyaśāstra. The plaintiff, defendant and witnesses should say the truth according to D.S. One who says the truth will be granted life long prosperity in this world and life after. Where as the untruthfull witness will have to suffer hard ships for long period, otherwise they will get afterlife or rebirth in the form of vulture, crow, pig etc. So the witness should tell truth in trial.

When the witness is trialed, they should take oath in the name of D.S and God - what had been heard by ears and seen by eyes and according to the conscience Brh says, in accordance with the path of Dharma (dharmamārga) only truth will succeed. Otherwise there will be some distruction in life, if Kṣatriya's witness says untruth; vehicles, army, weapon etc will be destroyed, if Vyśya says the untruth; cows, crops, gold etc will be destroyed, if Śūdrās say untruth; the evilthings will occur like Brahṃmahatyā. So the witnesses can reveal only the truth based on D.S.

In case witness submits untruths then they have to bear poverty, hunger, thirst, torture, brah̥mahatyā, bālahathyā, strīhathyā and all the good deeds done by the witness will be ruined. In case a witness involves in land disputes and submits truthless things (matters) then his relatives, land, house, gold materials, silver etc will be ruined.

If the Brāh̥maṇa is a witness, and he tells untruth, then the truth or the ultimate power of Brāh̥maṇās will be destroyed. If the Kṣatriya says the untruth army or weapons will be destroyed. So in accordance with the path of Dharma, Brāh̥maṇās, kṣatriyās, Vyśyas and Śūdrās will be trialed only on the basis of Dharmamārga. Witness can answer only to the question asked by chief justice. One who tells lies due to kāma will be fined 250 Paṇas and one who says untruth due to greed will be fined 1000 Paṇas. One who says untruth due to fear will be fined 1000 Paṇas and one who says untruth due to affection will be fined 250 Paṇas. Thus the fine will be charged according to the size of guilt.

In case, a Brāhmin is engaged in the works of trade, artisan or lending money with the high rate of interest, for his livelihood, then he must take an oath and his witness will also have to do so. The words of witness will be taken into consideration in the dispute. In case a sudra does the work solely assigned to Brāhmaṇa then he must take oath and witness will be taken into consideration. Witness should belong to the same caste of plaintiff or defendant, only then the dispute will be settled.

In lending and borrowing disputes, the witness's evidence should be taken inside the court, never be taken outside the court. In boundary disputes evidence should be taken inside the court. Witness to murder cases or those who witnessed the dead body should be taken to court for trial to get the evidence.

People coming as witness should remove their sandals and cap and should stretch their right hand out words holding gold and darbha. In courts, the chief justice should deal the dispute truthfully and innocently using the evidence of the

witness. Evidence of witness should not be made to repeat. Witnesses telling lies is known as ‘tappusākṣi’. False witnesses should be given double punishments and should be fined in the court itself. In case a Brāhmin submits false truths in courts, then he should be made naked and evacuated from that place. If the witnessed people are ignorant, or they are afraid of delivering truth or they are mad, then their evidences will not be considered and it would be taken as false truths. In case the evidence given by the witness is false the ‘tappusākṣi’ will be given the required punishments. If the witnesses of both plaintiff and defendant deliver truth in the right way then dispute can be settled successfully and if witness gives false evidence the dispute ends in failure.

One may be charged double fine by the court in case one repeatedly says or act as false witness. In accordance with smallness or greatness of the matter fine imposed can be varied. If he refuses to pay the fine he will be expelled from the country

or his tongue may be cut off or teeth may be taken off or can be put to death¹⁴.

Brāhmana, Kṣatriyās, Vyśyas and Śūdrās can overcome death by penalty by saying truth. Later they may accept the change of sākṣi words. So it will not create evils. Whatever have been said in Śāstra through Karma, these defects can be remedied.

Lēkhya nirūpaṇa (written documents).

Lēkhya are of three types – Rājyalēkhya, Sthānalēkhya and Swahaṣṭhalikhitha¹⁵. Lēkhyas divisions are – Dānalēkhya, Bhāgalēkhya, Sīmalēkhya, Krayalēkhya, Dāsalēkhya, Ādhilēkhya, Saṁvithilēkhya, Uthāmalēkhya, Jayapatra and Sandhipatra¹⁶. The lēkhya which states that the land is given as gift and can be enjoyed as long as sun and moon exist and which cannot be modified is Dānalēkhya¹⁷. The written document through which partition is made based on the understanding

¹⁴ Viramitrodaya- Vyavaharaprakasa-page-136

¹⁵ Ibid-page141.

¹⁶ Ibid-page141.

¹⁷ Ibid-page141.

between the concerned persons is called Bhagalēkhya. Sīmalēkhya is the one in which the borders are determined and written in accurate way. The written documents in which the matters like the buying and selling of house, land and giving money is kriyālēkhya¹⁸. The palm-written document is Ādhilēkhya, and the palm-written document regarding Dāsa is called Dāsalēkhya (mortgage).

The document written by the authorities of a village on the basis of Dharma which is with the consent of Śāstra is called Samvithilēkhya. Writing down surety- note after borrowing money from a person is called Udhāmalēkhya. If a wealthy man after lending money prepares documents including interest, is Rnapatra. Witness signature should be added to the Rnapatra after the signature of both the lender and receiver. In Rṇalēkhya lender and receiver reach at compromise and they have to write down the details of the debts and lender, receiver and witnesses have to sign in the document. In Rṇalēkhya matters regarding

¹⁸ Ibid-page114

date, month and year of giving interests should be written down. After writing down the statement in lēkhya, the borrower should add his name, address and signature in the document¹⁹.

In case a borrower is ignorant of writing the needy documents, then this should be made to write by another person on behalf of the debtor. Final Judgement should be written including the following matters- reference of the affidavits of plaintiff and defendant, written evidences, witness's evidences, documents, names of plaintiff and defendant, signature of the king, court seal, signature of chief justice and courtiers.

The person who writes R̥ṇapatra, as well as the borrower, should put the signature on the R̥ṇapatra. After that he has to sign as a witness himself. After the signature of the borrower the witness should also sign with their surname, stating 'I am the witness' in the R̥ṇapatra²⁰. Even though there is no witness the document written by the borrower should be considered as a

¹⁹ Ibid – page – 143.

²⁰ Ibid – page – 143.

pramāṇa. But on the other hand document written using force of forgery can not be considered as a pramāṇa.

Dravyāgama prakaraṇa. (Wealth and money).

Brh says, Money is the only thing which creates welfare to human beings in the world. Money should be made only through proper means the money made in this manner should be increased, should be safe guarded and should be experienced. Thus the uses of money can be divided in to three. Śukla (white), Śabaḷa (dhavaḷa prakāsa) and Kṛṣṇa (black) are the three types of money. Again each of these are divided in to seven. Veda Śāstrās, Sourya, penance, Kanyaka, Student, Yāga and Ancestors are the seven types of Śukladhana.

The money made out of the interest of lending and borrowing, out of agriculture, out of trade, due to Guru or teacher, by making idol or statues, by the service of others or as a result of favors are the seven types of Śabaḷadhana. The seven varieties of Kṛṣṇadhana are money made by the idea of Sāmudrikālakṣaṇa, by gambling, by betting, by beating, by

soothsayer (Veḷiĉappāḍu), by theft or by robbery and dūta kriya (spy work). People can perform Kraya – Vikraya or lending and borrowing, dāna or alms deed etc using the money earned through above mention factors. Apart from that, dana is divided into 27 varieties. Among this one group of people performs divine and worldly things with money. According to the purity of money as mentioned in the above deeds, worries and sorrows will be followed in this world and the other world. Money is again of twelve varieties. Among these three of them are applicable to four classes and the remaining nine are those having specialty. The money gaining from the ancestors through heritage, presents and dowries are the three varieties of four classes.

The money eligible for Brāhmaṇa are three types – money from doing act of yāga, by teaching of Veda and by doing good deeds. Money earned from doing war, by collecting revenue, by imposing fine in dispute or vyavahāra are eligible for Kṣatriyas. Money earned by doing agriculture, domestication

of cows, doing business etc is eligible for Vyśyas. The money earned from the service to Brāhmaṇās, Kṣatriyas and Vyśyas are eligible for Śūdrās.

The money earned on the basis of the above mentioned factors, will make great achievements, that is Dharma. Otherwise it will be Adharma.

Written documents on lending and borrowing matters should be prepared in the presence of relatives and traders, and also the lender and borrower should be frequently reminded of this matter, only then the document would exist as a strong agent. In case Brāhmins are incapable of their livelihood using their allowed works, then they can commit the works of Kṣatriya for their livelihood but should never do the works of Śūdra. A Brāhmaṇa should never do the works of a Śūdra and a Śūdra should never do the works of a Brāhmaṇa. In case they do so, great problems may occur. After a Brāhmin finds his livelihood using kṣatriya works, he should do penance for doing so and

should return to his own work or if he continues to do kṣatriya works then he should be named as 'kāṇḍakāṣṭha'.

Anubhōgānusidhi.

The money earned from the ancestors through heritage, from the treasurers, from the sale of something, by the presents accrued by doing victorious act, by dowry etc have to be properly made use of. The property can be enjoyed by one though there is no written document and if the property of land, house etc are enjoyed by his ancestors through heritage. The property can be accepted by the youngsters without any documents. Vyāsa says one is eligible for property, if it is enjoyed by his ancestors, for three years even without documents. This implies that, others can not claim the property through the dispute. The thing given as alms for 35 years, or made for lending and borrowing can be considered as pramāṇa. The years between 35 and 70 may also be considered as pramāṇa. If the years are more than the above, taking experience as pramāṇa, the property can be enjoyed. Thus the experiences

of 105 years are called Thripuruṣānubhava. This is based on D.S. Further the experience which is twenty years old are called puruṣānubhava and 40 years as double puruṣānubhava and 60 years are considered for the knowledge of lēkhyapramāṇa. The above mentioned factors told by Rṣis are considered to be opposing D.S. The experiences of property enjoyed during the life period of grandfather may be at father's time considered as pramāṇa and from the ancestor's time after 60 years. The property enjoyed from the time of ancestors itself without hindrance for 60 years ,it may be considered as a permanent pramāṇa. Pramāṇa is the experience at the part of the plaintiff due to giving things as alms deed for years , which creates no harm to others and which has great experience . If there is absence of any thing from the above mentioned things, it cannot be considered as pramāṇa. On the light of the above things, land, house etc can be owned and experienced on the basis of Anubhavapramāṇa.

Property existing for 60 to 105 years need Āgamaśudhi, if not there is no validity for document. If Āgamaśudhi is presented there is validity for documents.

Nār says, pramāṇa has the everlasting strength . pramāṇa during the life span of the witness can have strength as experience , after their life period .It is agreed by Śāstra . For land, house and other property even though there is will and successors and there is no yield from the property, its documents have no validity. If one person is doing farming in the other person's land with his consent, the owner of land can collect a share from farming. It implies that the property is not wholly under the authority of him. If a person is enjoying the property like land, house etc it should be with the consent of it's owner ; otherwise it will pave way for vyavahāra or dispute in the court for ten years or twenty years. There should not be any time lag for retaking the things and goods based on pledge. If there is time lag, it may pave way for vyavahāra in the court. If one sells property without the conscent of it's owner, and the owner even

after knowing it does not respond, even though there are written documents, the matter would not lead to vyavahāra. Thus it is said that in civil law all pramāṇa, witnesses and experiences should be conducted accurately. The written documents would be affective only for 30 years, after thirty years even if witness exists there is no use of this document.

Bhōgāpavāda.

Brh. says - After the 'thripuruṣānubhava' of land and house, even though there are no lēkhyapramāṇa, on the basis of experience, the matter should be determined by the village head and those who live on that period may acquire that property. While Dāyādhikāra sits beside, even the two generation would not be able to enjoy the property. Even when the property is enjoyed by the cousins or intimate friends with or without the consent of the owner, on the basis of experience they can not have the property as their own. On the other hand, if others are enjoying the property for long time on the basis of contract, they can have it on the basis of experience.

Yājñ Says, if the things and documents used for pledge and deposits should not be given in the hands of women, children or the person having no reasoning. They are not eligible for keeping such things. If one person is enjoying the property without reason and files dispute against owner, the concerned person will not have victory or success in vyavahāra in the court.

Viccīnna bhōga nirṇaya.

The vyavahāra should be determined on the basis of written documents and witness, if argument arises in the matter of ownership of the land and house enjoyed by a person. As mentioned above if the enjoyment of the property and its ownership was hindered due to some reason, the name, month, number and the reason for the hindrance etc should be pointed out after checking pramāṇa and trailing witness the matter should be determined. It should be based on Dharma.

Kōśapānādi vidhi. (True judgement).

If the witness dies before the completion of vyavahāra or they had gone abroad the words of other witnesses should be

taken into consideration. If the matter can not be determined at that time, it can be done taking pramāṇa and reasoning power or logic.

Nār says, there will be controversy, if one argues he has not brought the property will from the plaintiff as he has lost the will even after the plaintiff has actually given the same at the time of borrowing money without witness, the matter should be determined on the basis of three upāyās. When the will of the property is lost, four or five person can assemble in the court and demand for the will repeatedly – this is the first upāya. The statement which states that in a particular place a particular amount of money is borrowed is the second upāya. Only Satya pramāṇa is included in third upāya. Through these upāyas or ways the matter should be determined. The answers are given to the questions should mention place and time with reasoning. If one person borrowed one thing and after that a dispute arose, then the question should be asked by chief justice, three or four times after the answers given by the borrower then the borrower

should give it back. Persons can be identified as follows. One who walks with fire-stick, burns down everything. One who walks improper time, and place, is a destroyer, a person who travels with weapons in hand at improper time is a murderer and a person who teases by touching the hair of other girls, as the one having carnal intimacy with women. If one person is traveling in an improper time with an axe in hand, he may be treated as the one who break the dam or as a wood cutter. When the nature of the above mention person is doubtful, the court can reach at final decisions through the rational thinking in vyavahāra. If the matters cannot be determined by reasoning the dispute should be determined on the basis of Satyapramāṇa.

Divyapramāṇa are of nine types. Among them the first is the weighing balance, the second fire, the third water, the fourth poison, the fifth Abhiṣēkathīrtha, the sixth cereals, the seventh the corns which are hot, the eight the hot iron, and the ninth Dharma. In difficult vyavahāras the disputes can be settled by the above mentioned things.

In all matters Abhiṣēkathīrtha or Kōśāpāna can be used as satyapramāṇa . The Abhiṣēkathīrtha is otherwise known as Kōśāpāna. Truth cannot be found out through the above mentioned ways. There is another way of taking oath by touching parents, gold, cows, cereals etc to settle the vyavahāra. The saints are used to say that name of Kōśāpāna as Satya pramāṇa which are used for four Varṇas. It is also used for the patients who are unable to take the oath and for the leading procedures of vyavahāra.

The king would not ask the following persons to take oath- civilized person, person with good habits, the persons who are sick, the persons doing penance, noble women and those who stand for karma. If the king asks them to take oath, the dharma will be ruined. The truth will come to effect when the oath is made in accordance with each Divyapramāṇa . If it is not done so, it would not have any effect. Further the conditions of the person taking oath expressing his truthfulness are stated. In the court, the man who follows the path of the truth should

undergo three days of fasting he should perform satyapramāṇa after taking bath wearing the wet clothes. As the fourteen gods like sun, moon, air, fire, sky, earth, water, heart, mind, day, night, the two times in between day and night, and dharma which realizes the human minds. Taking these gods as witness, one should take oath that he is truthful. The truth known as Kōśa pramāṇa can be recited after the sun rise till ten nāzhika. The man who is going to take oath after bath with the noble mind should meditate his favorite god in his mind and should drink Abhiṣēkathīrtha. The thief should not be asked to take oath. After asking to meditate goddess Durga in mind drinking Abhiṣēkathīrtha and worshiping all gods, especially sun and having abhiṣēka, the oath can be taken. Brāhmanās may not be asked to drink Thīrthapāna. If the person who took oath meets with death or sickness within fourteen or twenty-one days, he will be impure and if it is not so he will be considered as pure.

The sacred water after offering pūjas for devas, should be used for thīrthapāna for three times. After committing

thīrthapāna, within 3,7 or 14 days, if any problems occurs for the doer then thīrthapāna is considered ineffective, if no problems occurs then thīrthapāna is considered effective.

II. Civil laws / civil procedure code.

Rṇādāna prakaraṇa. (Payment and recovery of debts)

Brh. mentioned the eighteen Vyavahārapadas from Rṇādāna to Dūtāhavana and each padas contained Kriyābhēda. The different varieties of lending and borrowing- debt- are called Rṇādāna. The five states included in Rṇādāna are how the money or things can be borrowed; how the money or thing can be lent; how the given debt can be taken back; the person having the authority for giving debt and person having the ability to receive debt.

For giving debt for pledged items 1 ¼ Paṇa should be charged as interest for hundred paṇas. If the debt is given only on the basis of interest of two paṇas from Brāhṃmaṇa and Kṣatriya, three paṇas from Vysya and four Paṇas from Śūdra. After writing down the same, money or things can be lent. Manu

says, for money lending as debt, each month, one paṇa will be charged as interest. This system is the path of dharma. If a lot of money is lending as debt, the will of the property like land, house, gold, silver etc can be accepted as a bail. Apart from that there should also be witnesses for the same.

Vṛdhi vidhi (Interest)

The above mentioned interests rate are of various types. Some sages indicate five various types of interest, where as some other sages mentioned six types of interest. V.M mentions six types of interests are to be charged. The six types of Vṛdhi (interest) are Kāyika, Kālika, Ākṛavṛdhi, Kāritha, Sikhāvṛdhi and Bhōgalābha. Vṛdhi means interest.

When the cows are taken for interest and the cows are used for works, the interest is called Kāyikāvṛdhi. If the interest is collected from month to month, it is Kālika interest. If compound interest is charged after writing the same, is Ākṛavṛdhi. If the person who borrowed money agrees to pay interest as money and if it is written down it is Kāritha vṛdhi. If

the interest is paid daily, that is if interest is collected each day itself, it is called *Sikhāvṛdhi*. If a person avails house loan for buying and the interest is increasing or decreasing on the basis of each time period, the interest thus calculated is called *Bhōgalābha*. *Manu* says, for the money borrowed with the consent of the concerned person, interest can be up to five *paṇa* for one month. According to the *śāstra* interest will not be increased when the debt is supported by written documents. If loan is taken for emergency and even after three months it is not paid back, the existing interest in that place can be taken in to account. If some person borrows some money on interest, after words goes away from that place, double interest can be charged on the same account.

Nār says, if interest is not decided for the property due to love there is no need of extracting interest with change in the period. If the owner demands money back after six months interest can be had from the hands of borrower. *Kāt* Says, Interest would not be considered in the case of loan issued on

the basis of love or request. If the borrower demands to get back the amount, ten paṇas or five paṇas each will be extracted as interest. Manu says, if the interest for articles such as jewels, pearls, corals, gold, silver etc are not given, the interest should be demanded back along with the principal amount. Manu says, money which has been given as debt for interest is called Kūśitavṛdhi. Money has been given as loan by fixing interest, and if the principal amount along with interest has not been paid back after the period, principal along with double interest can be calculated and demanded. Principal along with five times the interest can be added, when money is borrowed for purchasing grains, flowers, fruits, bullocks, horse etc.

Accordingly when cows, servants etc are borrowed for interest, after the time, the cow has to be given back with its calf. Oil, ghee etc when borrowed for interest has to be given back with eight paṇas. Like wise for various objects double interest rate can be applied according to the situation.

The interest taken by the lender from the borrower depends upon his power, place and time or period. Agricultural loans demands five times interest for plants like spinach etc, six times interest for medium sized seeds, eight times interest for salt, oil, liquor etc. If theft materials like gold or jem stones are caught, then as interest 12 paṇas with the materials should be given back. Saints say that money can be given without interest and this depends upon the situation of person and things by mutual understanding. If agreement is not written for interest to be paid then there is no need to think about interest.

Interest for interest (compound interest) is not defined in the words of sages of Dharma. The pledged property is not to be enjoyed by the borrower, if he enjoys the same the interest should be charged on the sum. The interest should be reduced and property should be returned.

Ādhi vidhi (Pledges or mortgages).

Brh says Ādhis or mortgages are of four types – Bhōgādhi, Gōpyādhi, Pratyayādhi and Ājñādhi. The property

such as gold, silver, land, houses etc which are mortgaged are called Ādhi. Kāt says buying of matter and accepting interest for mortgage is Bhōgyādhi. Living and non-living things such as horse, elephant, cow, land house etc can be accepted for pledge or mortgages. Calculating interest after buying the matter is called Gōpyādhi. After calculating interest for the mortgage with the consent of the owner, if that property is handed over to another, is called Pratyayādhi. If the property mortgaged to the king is taken off with the consent of the king alone, it is called Rājādhi(Ājñādhi).

In case unknowingly the mortgaged land cannot be taken back then as in barter system other objects can be mortgaged and it can be taken back. If the man, who accepted the mortgaged objects, sells it without the owner's permission, and if owner comes to know, then double the amount received for sold goods, with the goods must be returned. If gold, silver etc mortgaged are lost then the lost materials has to be returned some how by the lost person. In case, if animals like ox, horse

etc dies before the owner claims it, then the accepted person has to buy another one and handover to its owner. If the borrower fails to pay the interest according to the agreement, then he should pay some amount of compound interest and take his mortgaged thing. If living or non-living objects are given as loan for interest, this is known as Bhōgyādhi.

Bhd says, a person can sell his collateral security for balance of his payment of interest. Brh says, if interest to be given for an object suddenly doubles then the owner should claim it within ten days by giving the required money and interest then the mortgaged things belongs to him. If the owner delays the claiming of the mortgaged objects then it is taken to king's palace for auction.

Yāj. Says, the mortgaged property can be returned by offering deduction in interest and can be taken back the same. One should not make use of the mortgaged things. Otherwise the mortgage-interest should reduce half percentage. If lender sells the mortgaged object then he would be fined and punished

as thieves by the king. If two persons come for claiming one mortgaged objects then the court by conducting dispute makes final decision for whom it belongs. if one comes to capture the objects using his will power then he is fined and given the required punishments. If by force or adultery, the mortgaged amount is appropriated by the pledge, itself three times the value can be charged as fine.

Brh says, in case land, house or other property which are pledged or mortgaged are destroyed by fire or natural calamity, another property should be mortgaged. When the land, house etc which had been mortgaged and well, wall, pool or pond etc are happened to be destroyed. Then the debtor should give the compensation, destroyed things should be re-constructed. In case interest is delayed for the mortgaged property after maturity, the owner can have the ownership of the mortgage. The one who gives the interest and takes off the pledge definitely can have the mortgaged property by giving the principal along with the interest. The four above mentioned

mortgaged property are again of two types – Sthāvara and Jangama. Those having no life are Sthāvara and animals having life are Jangamas.

Pratibhū vidhi. (Surety ship).

Yāj. Says, besides, material things there are the cases of personal bail among brothers, husband and wife, father and son etc. They can divide their own property and stand as surety for buying and selling the same.

Sureties are of four types – Darśana Pratibhū, Pratyaya pratibhū, Dāna pratibhū and Pratyarpaṇa pratibhū. Pratibhū means surety ship. In a court anybody offers to produce the hidden witness, he is known as Darśanapratibhu. ‘This property is well known to me, it is not cheated, it is credit worthy’, is Pratyayapratibhu. Dānapratibhū is one who makes it sure that “in case owner is not closing accounts, surety can close”. “He should pay such amount and it will be paid by me” is made sure by Pratyarpaṇaprtibhū.” Kāt. Says, one who had borrowed from Zamindar failed to pay back the amount, then the surety

would pay off the amount and take back the mortgaged property from the zamindar; later with in 45 days surety would get back the amount from the borrower whenever he had wealth.

Prajāpati says, If the borrower can not pay the mortgaged amount, and the surety also cannot pay the above amount, after 45 days the borrower should repay the above mentioned amount in any way. Brh says, If the borrower without paying back hides some where, the bailer has responsibility of finding out the debtor and bring him out. If the person hides after taking leave from the job for 15 days, or one month or one year the concerned person should be searched out and bring back.

R̥ṇasya dēyādēyavidhi. (Refunding of debt).

The borrowing of money as debt from one person is called R̥ṇa. The way in which the borrowed money should be given back is as mentioned below. Kāt. Says, The debt bought by father after his death, should be repaid by his son. Or else the grand sons should do it The agricultural products may be destroyed due to heavy rain or lack of rain or by natural

calamities etc. The farmers would have done agricultural activities by borrowing money from zamindars. In the case of such a destruction in agriculture, the money itself can not be returned back to zamindars. Then there would not be any force to give interest for their loan. This is determined by the D.S. The sons have to pay off the debt of their ancestors. At first grandfather's debt and then father's debt should be paid back, respectively. Brh says, The sons who enjoy the ancestor's property, even though they are living together or separately, have to pay the debt back.

Nār says, if father was expired, then his sons have to pay off the debt back. If the sons live together or separately, they have to pay off the debt of their father. Nār. Says, or else, for paying off the debt of father while possessing ancestors property; son has to consider the debt due to him and pay it back with principal and interest. If the son has not possessed or enjoyed the property of the ancestors, he is no longer obliged to pay back the debt. If the son did not pay off the debt of his

ancestors, he would not be entitled to the position of the son. The debt made by women should be paid off by their husband. This implies that the debts by the wife of washer men, hunter, pastoral, costume maker, liquor maker etc should be paid back by their husband itself.

Utgrahaṇa vidhi (The methods for receiving back the mortgaged property).

Manu says, the methods for receiving back the mortgaged property are as follows – Dharmōpāya, Vyavahāra, Ācala, Ācārita and Bala. On the basis of one of the above mentioned five methods, the debt can be obtained back. The debt can be gained back through the three Upāyas, such as Sāma, Dāna and Bhēda (through balam or forceful manner, Dharma and Cala). The lender demanding quickly to pay back the money and take off the mortgaged property, in the presence of relatives is called Dharmōpāya. If borrower delays the payment off debt with untrust worthy words, the lender keeps himself the mortgaged property by untrust worthy words in the same way, is called

Calōpāya. If the person who was not able to give back the money, is kidnapped and thus the money is demanded back forcefully, it is Balōpāyam. The obtaining back the debt by producing pramāṇa and witness, is called Vyavahārōpāyam. If one observes fasting for obtaining back the money that Upāya is called Ācaritham.

Now there is mentioning of the methods of paying back debt if the borrower is not able to pay back the same. It is a dharma that, some pay off the debt by doing proper services in compensating the debt. Some may demands small amounts from wages, to pay off the debt. Vyavahāra should be made if the borrower argues that the master or lender punished him as he did not pay back the debt. If there is no other means to pay back debt, it should be paid back by selling his property like land or house. If there is no money to pay back the debt, the lender or master can take his property, gold, silver etc in compensation.

Jaya parājaya daṇḍa vidhi.

Some persons after borrowing the amount, pay back the interest of the amount regularly. If some one can not pay the interest regularly the lender can demand the full amount with the double interest. The interest to be given can be increased if the borrower fails to pay the interest regularly.

Yāj. Says, If some disputes arise in the case of borrowing the disputes can be settled in accordance with the written documents and witnesses. The king may lead the Vyavahāra and order to pay 1/10 or 1/5 of the full amount by Adhamarṇa. When the borrower gives some complaints about the debt in the court then the king may question the defendant about this complaint. If the defendant denies this complaint then lender has to pay half of the amount in the court. Thus the king may dispose of the Vyavahāra. Yāj says that many people give complaints against anybody— four or five members give complaints against one belongs to same caste and they submit the complaint to the court. But the people belong to four classes

then first will come to Brāhmaṇa then Kṣathriya then Vyśya and after Śūdra the dispute should be disposed. Nār Says, that one borrowed some amount from Brāhmaṇa later Brāhmaṇa passed away, then the borrower should pay the amount to Brāhmaṇa sons or relatives.

If there is no relatives or sons to the diseased Brāhmin the borrowed amount should be given to other Brāhmins. If there are no other Brāhmins the amount should be put into the sea or lake. If the borrowed material, ornament could not be paid back as a whole, should be given back part by part. This detail should be written on palm leaves and should affix the signature of the concerned persons on it. Nār says, if one asks the list of borrowed material and the borrower refuses to give the list then vyavahāra will arise on the same. If the borrower gives back the borrowed material fully then the documents shall be closed with the signature of the concerned persons.

Vyāsa says, if the principal amount and interest cannot be paid together then the following conditions are to be followed. If

the interest falls due and gets equal to the principal amount, then the property can be sold and the money can be used to pay off the debt. If there is no way to sell, then the interest should be paid first and after the principle amount.

Upanidhi prakaraṇa. (Deposits).

Brh Says, the act of depositing ones possessions such as gold, silver, dress etc for security in other's house is called Nyāsa. The act of depositing these things for security may be due to the fear of thieves, kings or even enemies. Nār says, if the owner of these things demands them back, these things will be given back to him. the things which are subjected to vyavahāra are called Nikṣēpa. When things like money etc are recieved as deposit for security keeping them in a box and sealing and thus maintaining secrecy of the concerned matters, it is called Upanidhi.

Kāt Says, If the things like ornaments money etc are borrowed on request for the ceremonies like festivals, marriage

etc and if they are given after their use, it is called– Yācītham. If the possessions of the owner are deposited for security in the custody of another person through a mediator, it is called Anvāhitam. The person who accepts deposits should be a man of high intellect, he should be born in an aristocratic family, and he should be good natured, he should be a Dharmīṣṭa, he should say truth, he should have a number of relatives, and he should have good knowledge regarding justice.

Brh says, the methods of keeping the deposits are mentioned below – the things should be kept in secrecy and there should be witnesses. The deposit should be checked frequently and if there are damages they should be reported.

It is said that the effect of protecting deposits like– materials, gold, silver, dress etc is that will create generosity , if the refugees and the properties are protected and given back without any fail, it will be a virtuous thing. It is said that if properties are protected out of fear of enemies, or kings and

gives back without fail then the protector will become devoid of all wickedness.

Brh Says, money or the things deposited for security are destroyed by fire , water, thieves etc the keeper will not be responsible for it. Yāj Says, on the basis of above mentioned factors, if the deposit are destroyed by fire, water, thieves etc depositors will not have give any compensation. If the money or the things deposited for security are not handled with care, or if they are lost or damaged, the things along with double interest rate should be returned back

Yāj says, if the deposit can not be returned due to some reasons, in time, principal and the double amount of the interest should be given to the owner. Vyāsa says, if one safe guards property or deposits, he should pay back the correct amount of the property or deposit at the time of withdrawal. If the deposited things destroyed by known or unknown reasons should pay back amount of property with the interest or fine.

Manu says, If the things which are deposited, cannot be returned when the owner demands it, a dispute will arise and the person responsible for keeping the deposits has to pay fine equal to robbery (akin to robbery) and will get suitable punishments.

Brh says, one who deposits the precious things in secrecy and when a dispute arises the truth will be determined in accordance with vyavahāra. One among them (depositer and keeper of deposit) is to take oath and vyavahāra will be settled.

The person responsible for keeping, after receiving deposits of precious things, refuse to give it back the a dispute will arise. The disput will be settled with the help of witness in accordance with satyapramāṇa. He has to pay fine for dispute. When valuable things are deposited in secrecy without any witness then the same thing should be returned back, with same quality and quantity. If the things which are deposited in an underground place and they are destroyed due to worms, termites etc the person who kept it is not responsible for giving in any compensation.

Nār says thst gold, silver, dress etc which are deposited by the gold smith or other depositers for security in other's house is known as Nyāsa etc. If the above things have been damaged, a fine has to be paid. If the deposits are not given back on demanded time, compound interest has to be charged.

Aswāmivikraya Prakaraṇa.

If the things which are sold by a person without the knowledge or consent of its owner, by theft or cheating is called “Aswāmivikrayam”.

Yāj. Says a buyer has no vyavahāra on cheated or steeled or robbed, materials the buyer must inform the seller to prove his honesty. The above mentioned materials must be given back to the real owner and pay the value and fine by the seller. If the swags are caught along with evidence, the owner can have it on the basis of its correct proof. Manu says that if there is a case of a person selling land or house without his knowledge or consent of the owner through cheating and if the owner finds it out the

person will be considered, as thief and he will get punishment. Both the seller and the helper will get the punishment. He has to pay interest and fine of 600 paṇa and it should be given to the owner. If there is a case where a person sells the property without the knowledge of the owner, to a person, the buyer will not be get the real owner ship. One who sells the property without the consent of the owner, then it will be given back to the real owner through vyavahāra.

If one person, sells the property of another person the amount is be given to the owner. While selling land, house, cattle etc will sell to another person any problems arise then the case has to be settled through vyavahāra. If anyone shows the lēkhyapramāṇa and other person shows Anubhavapramāṇa, then the lēkhyapramāṇa will be taken into consideration. If one person sells the property by deceiving the owner or by theft and the real owner creates objection over enjoying the same through vyavahāra in the court, the property should be returned back to the owner. If before the completion of the legal procedures, the

seller dies, the vyavahāra will be continued and the problem has to be settled by the court deducting one percentage from the total amount.

When dispute arises while selling the property such as land, house etc to another person the case can also be settled by zamindar, leader of the society. If a dispute arises over the sold property of land, house etc the vyavahāra will arise and it has to be settled in the court. If the borrower's decision is accepted by the seller then the case will be easily settled.

Joint venture (Saṃbhūya Samuthāna).

The subject of vyavahāra like the sharing of dividend in joint agricultural ventures, joint business ventures are called 'Saṃbhūya samuthāna'. Among this the sharing of profit or loss are introduced.

Brh Says, those who are not entitled to do business are the following- joint ventures must not be done with people who are weak, sick and lazy. The people born in noble families, skilled persons, scholars, enthusiastic people, those who know

very well to handle the revenue and expenses can be considered for joint ventures. Nār says the profit from the joint ventures should be divided by themselves after calculating the share on the basis of business. This should be done without any quarrel among themselves.

In this connection if there is dispute arise it should be solved by vyavahāra. Dispute is caused in the joint venture, it should be create by the people who are involved in the business activity. Brh Says, if some people start joint ventures such as agricultural activity, trade etc anybody tries to cheat them, the vyavahāra will determine through the satya pramāṇa. Yāj. Says, if dispute arises in joint venture the problem should be solved by Satyapramāṇa or sākṣivistāra. The person responsible for disputes will be removed from the joint business.

In joint venture if more expense is incurred due to any mis-happening from king or god, then the loss should be shared by the members of the joint ventures. In the joint business if it faces any loss due to the activity of a member such as

disobeying or taking wrong decision, then compensation has to be given to each and every member. Nār says, In the case of damages to the properties in joint ventures by theft, fire, king etc, one among the person involved in the business helps to compensate the loss he should be given 1/10 of the profit. In joint ventures if one among them passes away, his portion of share should be given to another member and he can lead his business, otherwise the members should share it. Brh. Says, when the profit is divided in joint venture, one share should be given to the king. For Brāhmaṇa it is 1/20, for Kṣathriya 1/6, for Vyśya 1/9 and for Śūdra 1/12. If none is seen to take the ownership of an escheat after the death of its owner, the king should look after the same for three years. Afterwards if no one comes with the evidence of the ownership it could be kept under the custody of the King. The property owned by dismissed person, could be kept under the custody of the King for ten years. Meanwhile if no one comes with the evidence of the ownership, the King has to take the property under his custody. If he

performs like this, the Dharma of the King would not decline. In Yāga Ṛtvik cannot perform his duty in accordance with irritation then the other person should perform the same duty with dakṣina.

The joint venture for agriculture should also deal with farmers, labours, seeds, oxen and plough. The following types of places should not be taken for joint ventures of farming- the places near mountains and towns, the places having paths or Rājamārga and also the places where so many rats live. The agriculture lands most suitable for farming are the land beside the pond, the land having more irrigation facilities, the fields surrounded by vegetation and the soil suitable for easy ploughing. The oxen have to be very healthy for using in agriculture. The following oxen should not be used for agriculture. Very thin, old age, diseased, disobeyed, cruel, handicapped and blind oxen should not be used for farming. These factors are called the Dharma or duties of farmers.

Now, there is mentioning about the sharing of diligence among artisans in a joint venture. They have to get the wages according to their job.

Kāt Says, that the artisans are divided into four types Viz- Śikṣaka, Abhijña, Kuśala and Ācārya. The one who is making the job done is Śikṣaka, the one who knows about the advantages and disadvantages is Abhijña, the one who does the work is Kuśala, and the one who knows about idols and teaches about them is Ācārya. In this type of work, Ācārya will have four share, the person doing work will have three shares, the person who supervise the work have two shares, and the person who makes the work done have one share respectively. Brh. says that in the same way, in the case of artisan life, making temples, palace etc the prime artisans will get the gifts of precious things of which more than half part of the gift should be given to the leader of artisan. In the same way black smiths also apply this procedure

Kāt. Says In the same way, in the case of arts like dance forms including Mohiniyāṭṭam, Bharathanāṭyam etc the dividends should be shared among the artists in the following way- the person playing music instruments should be given half of the money received and the balance should be equally divided among others. Kāt says, The duties of thieves in the implementation of deeds is as follows, that is after plundering the enemy's country, half or 1/10 of the wealth should be given to the King's treasury and the balance should be divided among the thieves according the customs. By these Kāt. is intending to say that there are systems even in the case of thieves. Among the above mentioned thieves, the leader has to take 1/4 parts, the member who is clever and brilliant as warrior has to be given two or three parts. The remaining portion should be divided among others. If any robber goes to rob another country and he is caught by enemy, in order to release him the quarter part of expense incurred for his release should be met by the leader of the same country.

In a joint venture anybody seems to be the leader will have the full authority over the liability and responsibility are considered by all the other members.

Dattāpradānika prakaraṇa (Resumption of gift).

The vyavahāra mentioning, which things can be given as alms, which can not be, are called Dhattā pradāna. Dāna-mārga are of four types- they are- the alms- deed is a good thing, the things given should not be returned back, things are not eligible for giving as alms, items can be asked back. There are eight types of things which are not eligible for giving. The thing which cannot be asked for returning is of seven types, the things which are eligible for asking to be returned are 16 types²¹. Nār. says- The things which are not eligible for giving as are 8 types. Anvāhithadravyam, the things bought by pleading, wives Nyāsa (thing which are deposited for security), Son, public property, public capital etc. In dangerous situations the above mentioned 8 types of gifts, cannot be offered. The property including land,

²¹ Vīramitrodaya- Vyavahāraprakāśa; Dattāpradānika pramāṇam-page306.

house etc inherited from ancestors like grand father, father etc should not be given as alms if there are sons and grand sons.

If Yācakadravya is not given penalty should be charged on it. Eligible things for giving are as follows- the things which are left as balance after the maintenance of house hold affairs can be given as dāna. If one is not in a condition to carry out the house hold affairs, he should not perform dāna, otherwise there will be disadvantages²².

The above mentioned situations Dāna is a sacrifice after the protection of family. The remaining portion is able to be given as Dāna. It should do only Udakadānapurva. Kāt Says, sarvaswadāna in gr̥hāsta can be done after meeting the required expense for the survival of the family, sarvasvadana be done in the Gr̥hastha.

The following 7 types of Dāna do not deserve to be got back. They are money given for goods, wages of servants, presentations, contributed money to friends, earning out of

²² Ibid page-307,308

survice to others, dowry and money offered for blessings of god. Brh says, the dowry of ladies should not be given as alms. The property of ancestors like land and house also should not be given as alms. Similarly nothing should be given as alms without his/her consent and the things obtained from serving also should not be given as alms. Yāj says, giving of alms as things alone should not be done, there should be a witness. Otherwise it would lead to vyavahāra. Goods once given should not be taken back. Alms given without any intention should not be performed. Kāt. Says- before dharma, should pay Dāna to Brāhmaṇa is dharma ie one should do dāna is considered as dharma. The money borrowed from anybody should not be paid back, then he should pay fine pūrvasāhasa. If dharma could not be followed up by anybody, he would be lead to hell or he would be suffering the low class life-like of creatures.

Nār says, ineffective Dāna are as follows – offering of dana made out of fear, offerings not favoured by family members, offering made in the absence of sons or heirs, bribery,

offering of leisure, offered for cheating, offered for secrecy etc. A few of effect less Dāna have no right to be taken back, those are as follows – dāna given to mentally retarded child, to wife, to servants, to patients, to insane persons, etc. Those who are really not eligible but they are able to get Dāna out of misunderstanding, and always engaged in immoral ways, then dana given to them can be taken back. The 16 Dānas done by Kāma; Krōdha etc are eligible to be taken back. Kat. Says whether Dāna is done due to Kāma and Krōdha can be demanded back. The youngsters do the Dāna by their own responsibility without the permission of parents, the Dāna done by mental patients, Dāna by an eunuch, dāna done by a fraud or crooked fellow etc are refundable or retakable.

If a person does the settlement deed to his beloved person and after death this property will attain to concerned person. If a person having no job takes bribery for satisfying his ends it will be considered as helpful deed. Like this if officers accept bribery for the satisfaction of his ends, workers would have to pay

eleven pana for each property as repentance. These are the sayings of R̥ṣiśwarās. Briberies are as follows- a part of the property taken away by the police from swags, a part from appropriation, a part of money from the group of courtesans, money taken away for the fulfillment from out caste. Nār. Says- if one person gives the things which are not eligible for alms, or gives something due to compulsion, or accepts things exerting, pressure and the king came to know about the matter, the person who performed the above should be made to repent. All these things must be done according to the context. Kāt. says- if some person desires to give someone alms and even after taking pledge he is not able to complete his wish, at least his sons should be installed to perform the same.

Abhyupētyā ūśrūṣa prakaraṇa (Law of master/breach of contract of service).

If one does his duty on the basis of other's command, it is called ūśrūṣa. The methods of ūśrūṣaka are called Abhyupētyā ūśrūṣa. The ūśrūṣakas are five types. They are

Śikṣitha, Anthēvāsi, Br̥thaka, Adhikarmakṛthu and Dāsa. The varieties of Śūśrūṣakas include the first four persons as Karmakāra and fifteen types of Dāsas. Brh. says Śiṣya mentioned in three Vedas i.e. Ṛgveda, Yajurveda and Samaveda, is defined as the one who studies staying with Guru abiding him and helping him. In the whole educational period, he should perform vr̥tha and thus help the teacher. Seeking bikṣa for his livilyhood, he should practice 'veda vidya' staying with and abiding the Guru.

Śilpasātra includes knowledge of metal works- of gold, silver, copper, carpentary work and masonry works. The Sāstra of music, the Sāstra of chanting mantra etc are also included. The one who knows about śilpa sastra position, is called Ācārya. The one who learns and practices śilpa sāstra is called "Anthēvasi". The above two categories śiṣya and Antēvāsi should perform the work together. The child who comes for this work should be treated as his own son. If the Ācārya without teaching his student, makes him do some other work and meets

his own ends. The Ācārya should pay the fine of pūrvasāhasa and should continue his studies under another Guru. In case the Guru teaches well but the Andēvāsi, due to his laziness or idleness, disobeys the guru and does not follow him, such student should be given punishment. Nār. says- completing the study of [/]Silpa [/]sāstra, the student should return to his home after giving due to respect to him and giving Guru dakṣiṇa. If the student stays with Guru after the completion of his study, doing or practicing the vidya or knowledge, he should offer a share of the income earned out of his work.

Servants and their Duties.

Servants are two types: Arthabr̥thaka and Bhāgab̥r̥thaka. The servant who does the job daily and receives his wage is called Arthabr̥thaka. Arthabr̥thakas are of different types. The servants who work jointly and share the effects of work among themselves, after completing their works are called Bhāgab̥r̥thaka. The servants are again classified into uttama, Madhyama and Adhama. The people' serving by taking

weapons, is called Uttama, the person serving by doing agriculture with plough, is called Madhyama and the one who carries goods are called Adhama.

Brh. says- Bhāgabr̥thas are of two types: The first one include the person who share the effects of work obtained. The second category includes the persons who meet their income out of keeping and taking care of cows. Those who are taken land on lease are also included in this category. Those who look after the house hold affairs among servants are called Adhikarmakr̥th. They are called Kaudumbhika and the remaining people who look after the overall affairs are called Udyōgasthās. The above mentioned four persons i.e. students (Sisyas, Andēvāsi, Servants, Adhikarmakr̥thu etc) perform good deeds- 'subhakarma'. The remaining fifteen groups of servants will perform bad deeds or actions- 'asubhakarma'. Karma is of two types: Asubha and Subha. The Karma of dāsa is Asubha, where as the remaining Karma is Subha. Nar. says: the Asubha Karmas done by servants are sweeping the yard, cleaning waste bin,

washing clothes and vessels, cleaning bathroom and latrine etc.

those who are making sculptures are Uttamas.

Kāt says, The above mentioned Dāsya Karmas must also be done by the son of house hold servants.

Nār says, Servants are of 15 types: Gr̥hajāthas, Labdha, Dāyōpagatha, Anākalaḇṛthan, R̥ṇadāsa, Āhitha, Yudhapraptha, Parājitha, Swayamprathipanna, Pravrajyovasithan, Krīthan, Bhaktha Dāsa, Bhāḍavahr̥jtha , and Āthmavikrayi. Each of the above mentioned is to be identified as follows: the full time servant and his son is called Gr̥hajatha, the servant who is brought after paying money is Krītha, the servant from Prathi Gr̥ha is Labdha, the servants got out of partition of one's possession is called Dhayōpagatha, the servant appointed due to his poverty and receives food is Anākalaḇṛthan, the servant who does his work, to pay back his debt is R̥ṇa Dāsa, the servant who is pledged by a master is Āhitha, the person who is caught after running from the war due to defeat is Yudhaprāptha, the person defeated by gambling and pledged by himself is

panajitha, the one who offers life long service to master is ^wṢayam Prathipanna, the Sādhu who is out casted from his community of is Pravrāgyāvavitha, the servant who serves for a short span of time is Krītha, the servant who serves by receiving only food is Bhaktha Dāsa. The one who fell in love with the servant in house hold and stays there marrying her and serves the master is Bhandha Vāṛtha. The one who received money for selling himself/ herself as a servant is Ātmavikrayī. They are considered as slaves having no freedom or independence. For attaining independence servants should please their masters.

Yāj says, The cruel Sādhu should be the servant of King for life long period. If the master buys the servant who has been pledged, the servant will be freed from the pledge.

Kāt says, if the house maid becomes pregnant by the master, she should be given independence along with her child. Brahmanas must not be subjected to servant's job. Deeds of servants (dāsyavṛtti) must be performed according to the sequence of caste system itself. The Brāhmaṇa should not be

made to do deeds of servants by a Brāhmaṇa himself. The Aśubha things also must not be done.

Manu says the lord Brahma created Sūdras for rendering dāsyavṛtti as Sūdras and such other castes are liable to doing dāsyavṛtti.

Servant-non payment of wages (Vedanānapākarma Prakarana).

Nar says, the aspect which says about the salary which should be given, to those who are doing work and also to whom the salary not to be given even after doing job etc, is called Vedanānapākarma²³.

The wages should be given according to the quantum of work done by the incumbent. The advance of payment can be pre- determined before doing the work and the wage can be given at the initial or medieval or final stage of the work²⁴ If the work is done without fixing wage, 1/10 of the harvest should be given as wage.

²³ Vīramitrodaya- Vyavahāra Prakāśa- page: 323, Vyavahāra Mayūkha page: 92

²⁴ Ibid-page-323.

Brh says, If one receives good harvest due to great effort, 1/3 of the harvest should be given to one of the worker who helped in making the same. If it is Bhaktha Dāsa 1/5 of the harvest should be given and for all other Dāsas 1/3 should be given²⁵. Manu says if there arises dispute in the matter of wage after doing the job, dispute is to be solved with the help of a mediator and the deserved wage is to be given²⁶. Brh. says if the worker after receiving the advance does not do the job, he is to be made to pay back double the amount of his wage as a way of repentance.

Nār says if one sits idle even after promising to do the job, he is to be forced to do the work. If even after promising to do a work within a specified period and receiving an advance he stops the work before completion, the wages received in advance is to be repaid and he is to be dismissed from his job.

If the master scolds the servants while doing his work and he stops his work, he is to be given the full day wage. Manu

²⁵ Ibid-page-323

²⁶ Ibid-page-323

says, eight 'kr̥ṣṇālam' should be fined for the servant if he denies doing the work due to laziness, or anger or idleness apart from illness.

Kāt̐ says- if one person gets another one as a companion for a work and one among them suffers from any disease at the time of working, the other person should help him for three days. If he does not provide him enough help and goes away, he should be given punishments as a method of repentance²⁷.

The types of giving wages to prostitutes.

If a prostitute after receiving the promised money, does not offer her service, she should be fined the double amount of money. In a case where the person who promised money to the prostitute and even after giving the same withdraws from her, the money received by the prostitute need not be given back.

Nār̐ says, if a person even after promising an amount of money to a prostitute, and he denies the same after enjoying her, he should be fined eight times the amount decided. In the case

²⁷ Vyavahāramayūkham- page-93; Viramitrōdaya –Vyavahāraprakāśa, page – 329.

where the prostitute is attacked or harmed or raped by a group of people, the fine should be imposed in the above manner.

If the prostitute even after receiving money from one person goes with another due to the greed for money, she should be fined double.

Vyavahāra in the above mentioned matters should be settled by a person who used to visit the brothel house as the mediator.

The matters concerning rent.

Nār says, if one person lives in another person's land making a home, rent should be given as money as long as he lives in that house on every first day of month. If a person goes to another place after paying rent, he should take the materials used for building the house such as stone, tiles, wood etc to new place.

If a person leaves the house without giving rent, the materials used for the construction of house such as stone, mud, palms, wood etc. should be given to the owner. Kāt says: If one

person living in rented house does not pay the rent on the prescribed days more money can be charged as rent. One should return the things taken for rent such as skins, mat preserving oil, śarkara etc after it use. If the rented items face any distruction it should be newly made and returned.

Swāmi pālavivādapākaraṇam (disputes between the owner and the keeper of cattle)

Manu says the diputes arising with regard to the wages of Shepard's- gazing cattle should be settled amiably. One cow should be given as wage per year to the person gazing hundred cows. Later on, the milk can be taken after with the consent of master. one cow along with its calf will be given. The person who takes the cattle for gazing should give enough food to the cattle and should take the number of cattle before and after gazing and then shoud be returned safely to the master. The person like Manu, Yājñavalkya etc says: if any one of the cattle is missed at the time of gazing, the shepherd has to return the

others to the master and should give proper explanation about the same.

Vyāsa says, there is no justification or excuse when the cows are lost due to either by natural calamities or by diseases or by thieves. Nār says: In case the cattles are attacked by wild animals like tiger etc, the Shepard should give alert to every one by crying loudly. If he is not strong enough for that he should immediately inform the situation to the master. If the Shepard does not inform about the loss of the cattle, he should give the money value of that cattle to the master. Brh says If due to the negligence of sheperard any distruction happens to the cattle the shepherd should give the money equal to the rate of that cattle or a cattle itself to the master. Nār says, If the wild animals like wolf, tigers etc tried to attack the cattle at the time of gazing they should be protected by the Shepard. If he does not do so, and the cattle killed, the Shepard should repay the money equal to the value of that cattle, to the master.

If the animals given to cowherd for keeping, face attacks from wild animals or losses on their way at the time of gazing the cowherd should give the master money in compensation to the loss. Manu says: If the cow kills at the time of gazing, the cowherd should take the head, tail and horn of the dead cow and show them to its master. Other wise the master may think that “Some body had stolen my cow”. If the Shepard shows the above mentioned things he can be considered as innocent . The above mentioned procedure is taken for the cases regarding elephant, horse, hen etc. Yāj says there should be 100 ‘nāzhika’ of land for gazing the cattle in village. The land should be set aside by the villagers or farmers or King. If it is a city 200 nāzhika of land and if it is a metropolitan area 400 nāzhika of land should be set a side for gazing castles.

The master should fence the area around the place of gazing and thus should protect them. If the master does not do so and thus the cattle create destruction to the harvest there is need of paying money in compensation. On the other hand when

the Shepeard purposefully let the cattle go to the field, which creates destruction to the harvest, compensation should be given to the owner of the field. Nār says, For the protection of the fields, the land owners should fence their agricultural fields. The fence should have approximate height and thickness. If the cattle create destruction to the farm by jumping over the fence, compensation to the destruction should be given to the owner of that field. Yāj says, If a person's buffalo entered to other's field 8 paṇathūkka of gold should be given as compensation, if it is a cow the penalty will be 4 paṇathūkka of gold and if it is Goat, 2 paṇathūkka of gold.

Samayānapākarma Prakaraṇam (customs according to the castes and tribes).

Brh says, if the villagers, merchants each religious sections etc decided to conduct a function jointly in matters regarding Jāthi Dharma, Grama Dharma, Dharma and Justice, that is called Samaya Kriya and SaṅkēthaKrama. All the villagers should assemble after drinking the Thīrtha, and writing

the matters in a palm leaf and taking pledge, the matters should be decided. Brh says the member can be two, three or four members jointly discussed matters concerning village affairs, Justice and Dharma. The members should not exceed five because it may create obstacles in the matters. The number of the members should be taken into consideration. The persons who should not be taken as members (leadership) are mentioned below. The persons who quarrel, the depressed persons, those who are Shy, misers, lazy fellows, cowards, old persons, small boys etc. Those who are eligible for this post are: Those people who do not have crookedness, those having knowledge about Dharma, those who are humble, having noble born, and the people having strength.

Without creating obstacles to the Dharma mentioned in Veda Sāstra and also the orders of the King, the subject must function. The person who violates royal command or denies them may be subjected to punishment. Yājñavalkya says: If the public property is destroyed or damaged or stolen by a person,

the King should exile him from the country. Or else, according to the damage created, punishments should be given. The one who violates or creates damage to religious harmony should be given punishment, i.e. fining four or six gold. Kātyāyana says: if a Brāhmaṇa violates religious harmony or Dharma or justice, that cruel Brāhmaṇa should be exiled from the country, making him naked and after fanning his head with the hair of a dead body.

Brh says, the persons who disclose secrets, those who create split in society, those who create distress to the co-workers, those who violates royal command etc should be exiled from the country. He should not be called back after the punishment. The person who does not repent even after violating common Dharma, those who discards the Brāhmaṇa having supreme knowledge, those who does not act as witness etc should also be exiled from the country. If one says 'not to eat like this' to the persons eating by sitting in a hall or in a port, according to the eligibility he should be made to do repentance.

Br̥haspati says if one of the eminent persons in society, commits wrong thing, he can be given 'Vākdāna' or 'dikdāna' as punishment. Or else, he can be exiled from the country itself. If one person in the society harms another person and the king does not trail him, according to the seriousness of the matter, he can be given punishment in the society itself. If there a disputes arises between the prominent members of the society and the subjects, the king should interference in the matter considering every one as equal. Yājñavalkya says in the case of discussing the social problems, after considering the matters of public justice, the king should honour the people by giving rewards and thus should sent away them.

The rewards given by the king can be distributed among those who are stricken by poverty, old age, grief etc. if in a society the property of one person which was given as alms was stolen away by thieves and another person seeing the same retains the position and cowards deed king gives him another

rewards, he has the ability to distribute them to those people whom that person likes.

Kāt says, if a person borrows money for the sake of the society and later uses them for his own ends, he should pay back the debt by himself. If this work used for the sake of society, the members included in that society should pay back the amount. If one receives reward for the acts done in sake of the society and keeps it in his own possession he should be fined eleven paṇa as punishment.

Vikriyā sampradāna prakaraṇam. (Non-delivery after sale).

Nār says, the vyavahāra which arise after settling the money value of goods, and even after receiving the money does not pay the goods is called vikriyāsampradāya²⁸. The dravya are two types in the world. They are ‘sthāvara’ and ‘juṅgama’. Those thing which are not movable is stāvara where as the things which are movables comes under juṅgama. The act of deciding money value, and buying and selling of these stāvara –

²⁸ Vyavahāra mayūkha – page 95.

juṅgama is called 'panyam'. The act of buying and selling goods are of six types. The act of buying and selling should be on the basis of the goods – quantity, quality, number, shiningness, beauty, and other features. For e.g, the buying and selling of areaconut, is on the basis of it's number. Gold, silver, copper, pots etc on the basis of it's wight. Paddy, wheat etc on the basis of quantitiy. Women on the basis of her beauty. Jewels etc on the basis of shiningness and elephants and horses are on the basis of it's features.

- . If a person even after receiving money for sold objects does not give it to the buyer, the buyer can fine on the person who received money, i.e. the fine for enjoying his property. For e.g, if after paying the money for cow, the seller does not give it to the buyer, the buyer can charge fine from the date of sale. If a person is cheated in the case of goods, bought or sold, even after deciding its price, double amount of money can be charged as penalty. If the merchants sell the goods bought by them in its native place itself and create profit out of it half of the profit can

be taken by them. If the goods are sold in another place and they make profit out it, one tenth can be taken by them as profit. In the above mentioned way tax and duty should be paid.

Manu says, if the goods are destroyed after ten days of its purchase, the goods should be returned to its owner. If the destruction is after ten days , the goods can not be returned to the owner. If the owner asks the sold objects to be returned, it can be returned lessening 1/10 of its value. If there arises a quarrels or disputes and the person who bought the goods does not agree to return, 1/10 of the money should be given to the person who soled the objects.

Nār says, if the merchant gives damaged goods after deciding the value and the buyer came to know about it , double amount can be fined from the merchant as penalty. Fines can also be charged for adulteration of goods.

Krīthvānuśaya Pakaraṇam (Goods buying and selling).

If the person after buying goods and paying money remains their due to speculation and the person who sold the

objects says about needed justification it is called Crītvānuśaya²⁹. If a person thinks that he does not need the objects bought by him he should return them without any damage or harm³⁰. If the person who do not want the objects he bought returns after two days $1/30^{\text{th}}$ of the value will be taken from the buyer. If the objects are returned on the third day $1/15$ will be lessened from the actual cost. If the transaction is after three days, it is not possible to repay money. If a quarrel arises after two or three days, (ie in the case where the customer faces loss) the problem should be solved by four persons through Vyavahāra.

Yājñ says, there should not be speculation where the merchant himself tells the advantages and disadvantages of goods after minute experimenting of his own. If there arises speculation $1/6$ of the cost should be fined by merchant. Brh says, the value of the goods should be determined by the advantages and disadvantage of the same. The goods brought

²⁹ Vācāra mithrōdaya: Vyavahāra Prakāśa: page: 338, Vyavahāra Mayūkhā: page: 94

³⁰ Vācāra mithrōdaya page: 340


after observing the same can not be returned back as there is no justification for the same³¹. Vyāsa says, leather, fuel, thread, cornes, liquir, clothes, lead, brass, silver, gold, ghee etc should be brought only after minute scruetiny. If it is bought there is no provisions for giving it back. Just like that fruits can be bought at once, when they seem to be good and there is no provision for returning the same. If some objects are bought due to desire, there is no need for returning the same. There is no cumpelction over the merchant for taking back the objects sold after fixing its value and its sale. It means that goods once sold will not be taken back. The buyer may say to the seller that he may return them with in some fixed days. Regarding cornes and seeds it is ten days. Iron can be returned back at the date of purchase itself. Buffellow, horse etc should be returned back with in five days, gems and perls with in seven days, house maids with in one month or fifteen days, cow in three days. If the things are returned with in the above mentioned days, the seller should

³¹ Vira mithrōdaya- Vyavahārāprakāśa- page: 339

take them back. But if the things are minutely scrutinized there would not be any provision for taking the things back.

Brh says, if the goods are not scrutinized properly and soon after buying he finds damage, they can not be returned back. Otherwise, the seller must take it back and repay the money. Nār says, if the old clothes are purchased in reduction sale and the buyer after buying finds that the price for the same was a bit high, the goods would not be taken back and there will be no provisions for repayment by the seller³². If five to eight persons buy land or house jointly and a person among themselves gives it as alms, it should be accepted by other people.

If the new cloth once used is returned after using and washing there will be change in its value. After each washing $1/8^{\text{th}}$, $1/3^{\text{rd}}$, $1/2^{\text{nd}}$ or $5/8^{\text{th}}$ of its value in accordance with the quality, can be reduced from its real value. The above mentioned case is used for clothes which are used. If due to

³² Vyavahāra Mayūkha Page: 95 , ramithrōdaya page: 341

dispute, the object bought is returned on the same day of the purchase, the amount which was given for the same can be got back. If the object is returned on the second day $1/30^{\text{th}}$ of the value and if on third day $1/15^{\text{th}}$ of the value will have to be deducted from the real value and thus that amount can be repayed. If a dispute arises again, the value can be fixed by joining four or five people together in accordance with nature of the purchase.

Brh says, transactions in the case of jewels, elephant, horse, ass etc must be informed to the king. After that this can be sold by fixing the value of the same by a person who has good knowledge on the subject. Vyāsa says, the money which is payed for an object to a person and from whom an object is bought on payment- is called price. By this manner that object will get both Samatva and Swāmitva. If a land or animal etc are sold and the same objects are returned back it is called, Parivartana. If the property is bought equally, it is called

Vinimaya. If two different objects are bought equally, it is called Kraya. Both Parivartana and Vinimaya are equal to Kraya.

Simāvivāda Prakaraṇam (Boundary disputes).

The vyavahārās connected to land are of six types. And there are six reasons for it. The first reason is the vyavahāra sharing “I have/ not more than this in a certain place,” the second one is when the plaintiff says “I have this much land at a particular place” and the defendant says “If it is not that much”, claiming “I have no land” at a certain place is the third reason, the quarrels connected with pious and impious activities are the fourth one, the usual quarrel arising when one is enjoying a property not enjoyed before, is the fifth one, while one says that this is the boundary of my property and the other contradicting it comes under the sixth reason³³.

Boundaries of lands are as follows: wells, ponds, fence, orchard, stems, the wall filled with Darbhā, worship places, at the place of joining of the boundaries the things for laying

³³ Vira mithrōdaya Vyavahāraprakāśa Page: 353

boundaries. The boundaries can be marked with small stones, bones of cow, hairs of tails, ashes, skull, dried cow dung, sand etc. These should be brought to the knowledge of the children. The children having the knowledge of these things should pass their knowledge to the coming generations when he is old, so that there would not be quarrels regarding the boundaries.

In the cases of dispute of boundary matters, the king should summon the concerned persons and the dispute should be settled by the king. If there arises disputes in the matter of security to protecting objects established at the boundary, the dispute should be settled in the presence of witness. If there is no witness as mentioned above, the person living near the boundary should be summoned and thus the quarrel should be settled. Kāt says: if the Sāmanthas are creul persons filled with Rāga and Dwēṣha, they should be kept apart from the case of boundary disputes. Manu says: If there are Brāhmaṇas in the above mentioned type of people, they should be made to take

pledge of truth as mentioned in the documents of witnesses. Only after that the boundry can be determined.

Nār says, the issues or quarrels related to boundry should not be settled calling only one person. The case should be settled summoning four or five persons³⁴. If there is quarrel regarding boundry between two persons and later, if the plaintiff and defendant, are willing, the issue can be settled by themselves.

Nār says, if the pledge of truth is not taken truthfully by witnesses and those who do not bow their heads before the teachers in the quarrels of boundaries, they will face the anger from the God and also from the King. If the case shows the sign of untruthfulness other person should be summoned and the boundry should be determined. Again Nār says: while determining bountry, if one says untruth, 15 paṇa should be fined as a method of repentance³⁵. Yāj says: the boundry should be determined by the persons knowing signs such as trees, wells etc or else King should look for the same. The plaintiff and

³⁴ Vyavahāra mayūkha: page: 96

³⁵ Ibid page:97

defendant should follow the command of the King. The things determined by the King should be considered to be made by the God. As the prosperity, decay etc comes as a result of the actions of God and the King, the royal reprimand should be taken into account.

If a person takes the land in lease and does agricultural activities there, and if he faces loss by natural disasters, like heavy rain or floods, the land should be taken back by the owner himself. Yājñ says: The quarrels should be settled in the manner mentioned above in the cases of land, house, places of worship, open grounds, bower, well etc. the same should be followed in cases of water falls. Vyāsa says, one is not entitled to possess a land if it is acquired by Kāma, Krōdha, Lōbha, treachery or truthlessness. Nār says, if one builds dam or bund at his field which causes water shortage and thus destruction of crops in the others fields , the person who built the dam should pay the money for the loss created by him. If one person uses water from other person's well or pond ; the later can have share in the

agricultural production made making use of his water or else the share will have to be given to the king.

‘Sēthu’ is of two types – khēya and bhandya. Water made by digging and it’s flow from one place to another is called khēya. The flow of water from ground is called bhandya. Sēthu is also again two types c̄hitra and aṇa. If the owner of a place dies and the place seems eligible for making c̄hitra (bund), his ancestors or supporters or dependance should be informed the matter and the bund can be made. If there is no one mentioned above, as relatives, bund can be made under the supervision of the king.

Kāt says, if one person maintains pond , eschate , house , etc without the knowledge of the owner, those will not have the owner ship. It implies that, the person who repaired would not have possession in the same. Before making over constructing a house or a well in the land of another peson the consent of the owner should be got. If the owner is not alive conscent should be made from his relatives. Or else the matter should be put

forward to the king. If it is done without the consent of the owner, then will have to pay compensation, it implies that he can not enjoy the property.

Nār says, if the owner is not in a position to do agricultural activities and another person comes forward to do the same, the owner will have a share of agricultural product. If the land is kept without doing agricultural activities by the owner and another person comes forward and with his effort does agricultural activities and if the owner comes as a hinderance; the owner should repay the amount he spent for seeds and agricultural activities. Kāt Says $1/8^{\text{th}}$ part of the agricultural product can be taken by the person who had done it, from the harvest. The other should be given to the owner. If the land remains without agricultural activities, it will have $1/2$ of ceda and if it remains so for 3 years it will have full cēda. If it remains so for five years, it will be equal to the forest.

Vyāsa says, Agreeing to do agriculture in one person's land later one expresses unwillingness to do the work, in this

case neighbours can interfere and can fix land tax or land fine to be paid by the person to the land owner. Manu says, Making a wasteland into a fertile land and to do agriculture, another person started to do the work, $1/10^{\text{th}}$ of the amount giving to ploughing and making the land level. Viṣṇu says, Who had broken the boundaries between the two villages should have to pay 200 paṇam as fine, who had broken the boundaries between the two lands should pay 800 paṇam as fine, breaking the boundary of other village, trespassing the land and doing agriculture should pay 800 paṇam as fine, the person who takes water, which is kept in one's land, and take it to the another land should pay 800 paṇam as fine. Anybody do any mistakes and have to pay fine *uttama sāhasa* and have to correct all the boundaries by himself.

Kāt says, the land owners have the equal right to take the fruits of trees which is in between the boundaries of two land³⁶. If the trees are on the boundaries of one person's land and the

³⁶ Veeramithrōdayaṣa- Vyavahārapadam- page: 336

branches of that trees are wide enough to get into another person's land then that person have the right to take fruits from the branches. If the branches of the trees are getting into another persons land, then the fruits of trees should be divided into three parts. First part should be given to the real land owner and the other two parts can be taken by the other person, who are those land the branches are getting into the real owner.

If the shades of trees on the boundaries are destroying the plants of another person's land then as said above the fruits of that tree should be divided and given to the second person. Eg: plantain and arecanut trees are not harmful for others plants. In that case the real land owner need not share the fruits. Kāt says: if the branches of the trees on the boundries getting into another person's and become wide enough with fruits then that person have the right to take the fruits from that branches and also have the right cut down the branches.

III. Criminal laws.

Vākpāruṣya prakaraṇa.(Defamation- classification of crimes)

Nār: says, Uttering harsh words concerning a country or a caste causing fear among others is vākpāruṣya³⁷. Kāt says, angry words, bad words, harsh words are all vākpāruṣya. The rude words used to words one's mother or sister and saying like such as 'I will kill you or I will kill the cows' etc are known as madyama vākpāruṣya³⁸. Rude words or harsh words about the food and water which is not eatable, using harsh words after having liquor etc come under harsh words. Hurting or cursing words come under strong harsh words³⁹.

Brh says, punishments given for the using of harsh words in arguments, are as follows- if the two persons of the same caste indulge in arguments, using harsh words both of them will have the same type of punishments. The punishments will be the double if the arguments using harsh words are against

³⁷ Vyavahāra mayūkham page: 98.

³⁸ Ibid page:98

³⁹ Ibid page: 98

respectable person or a decent person. If the arguments and harsh words are against the low class people the punishment will be only the half. As such punishments given for the harsh words are divided into many types. Yājñ says: if the harsh words are used against the low caste people, the punishments given to the high class people would be the half of the decided punishment. If the arguments are against respectable persons or other women, the punishment will be double. Nārāyaṇ says, Harsh words used in the arguments due to madness, jealousy, ridicule and affection by the persons of the same caste, they have to repent on it and they have to give fine of 13 paṇa. Manu and Nārāyaṇ say, Using harsh words against blind or lame or handicapped persons is punishable. For eg. looking at a blind person call him blind, like this looking at handicapped persons make fun of them, then such person should be given two 'thāmrapaṇam' as fine. Yājñ says, arguing and threatening anybody by saying that he will make someone handicapped by breaking legs, hands and eyes etc will have to pay 100 paṇa as fine. Anybody says about cutting

off nose, ear then, he has to pay 50 paṇa as fine and also have to confess. If one person abuses and behaves badly to another person's mother and sister, then he should be given 25 paṇa, as fine. If a weak old man is abused by a healthy man, then the healthy man has to give ten paṇa as fine. If old and handicapped persons are abused by healthy or powerful man then he has to pay 100 paṇa as fine.

The person who argues with father, mother, sister, teachers etc have to give 100 paṇa as fine and have to confess. If the husband insults or simply hurts unnecessarily, then he has to pay 100 paṇa as fine. If a Kṣatriya abuses Brāhmaṇa, then he has to pay 100 paṇa as fine, if Vysya abuses Brāhmaṇa, then he has to pay 150 paṇa as fine and if sūdra abuses like this he will get the cruel physical punishment. Brh says, If a Brāhmaṇa simply hurts or abuses he has to pay 12 paṇa as fine and if Brāhmaṇa abuses Sūdra who is having bad character then brahmana need not give any fine. Vysya who argues with Kṣatriya should give 100 paṇa as fine and kṣatriya who abuses

vysya, then he has to pay 50 pana as fine. Kṣatriya who says harsh words to Śūdra then he has to pay 25 pana as fine.

If Śūdra abuses vysya he should pay 100 pana as fine as pradhamaśāhasam, if he abuses Kṣatriya, as madhyamaśāhasa, he has to pay 500 pana fine and if he abuses brāhmaṇa then he has to pay 1000 pana for uttamaśāhasa as fine. Manu and Nar says: if a sudra says harsh and rough words to uttama brahmana, kṣatriya, vysya, who all are eligible for upanayana karma, then the tongue of that śūdra has to be cut off. If a śūdra says bad words and nonsense to a perfect brāhmaṇa, kṣatriya and vysyas, then his tongue should be burned with ten angula long iron rod. While Brāhmaṇa teaches dharmapadāśa to kṣatriya and vysyas, śūdra happens to hear it, then śūdras will be punished by pouring boiling oil into his mouth and ears. Yama says, if a sudra hears the vedadhyāpanam of Brāhmaṇa, then the metals like lead should be boiled and poured into the śūdra's ears. If the śūdra says vedavākya then his tongue should be cut into pieces. One who do any crime and then confess and became a perfect

person then he should not be treated like as criminal. If king gives punishments to the criminal, then again he should not be called as a criminal. If anybody says any rumour about the criminal then that person should be fined.

Those who says badly about Sāmānyapapam they have to give the fine of Pradhamasāhasa. Those who says about animal killing have to give the fine Madhyamasāhasa. The man who steals gold or other metal and he is called as a thief, he has to pay the fine as Uthamasāhasa. Yaj says, who says badly about Brāhman, King and Dēvas, he has to pay the fine of Uthamasāhasa. If a Brāhmaṇa calls a person Mukhavāsikhthan, who got birth from a Kṣatriya woman, and scolded him then the Brahman has to give Madhyamāsāhasa as a fine. One who says badly about the whole village, then he has to pay fine for pradhama sāhasa. If anybody insults and says badly about a perfect ruler then his tounge should be cut off. If it is done he will be a perfect man. Nār says, one should not say bad things, should not beat or punish anybody, brāhmaṇa, kṣatriya etc

because the blessing of brāhmaṇa and the loyalty of king, can protect the country. Vasiṣṭa says: if anybody has a Patitadōṣa then he is called as Patita, as a thief is called as a thief. Uśāna says: there is nothing in this world which is not mentioned by Mahārṣis or all the matters in this world are mentioned by Ṛṣis. Fine for prāśyaścittas may be imposed in accordance with the dharma or nītinyāya.

Assault (Daṇḍa Pāruṣya prakaraṇa).

Brh says if anybody hurts anybody by hand, stone, stick, mud, sand, and ashes then that type of attacks are known as Daṇḍa pāruṣyam. Daṇḍapāruṣyam is also known in three ways, avagōraṇam, nissāṅgapadanam, kshadāḍarsānam. Dravyas are of three types, hīna, Madhya, Uthama. If anybody exceed the limit of hīna dravya then he should give fine for prathama sāhasa. If it exceed madhyamadravya then, has to give fine for madhyamasāhasa. If exceeds uthamadravya then have to give the fine for uthamasāhasa. Yāj says, if one throws ashes, sand, and mud on anybody, then he has to pay ten paṇa as fine. If one

throws waste things and other dirty things or give kicks, spit, another person, then he should give 20 pana as fine⁴⁰. If the people are of the same caste and same character and doing the things as mentioned above, then they should give 20 paṇam as fine. If anybody badly hurts a woman or a respectable person then he should pay 40 paṇam as fine. If a drunkard attacks as a mad man then he has to pay 10 or 20 paṇa as fine. Kāt says: if anybody vomits or excrete on some one then he should give 40 paṇa as fine. If anybody throw these things on some one then he should give 60 paṇam as fine. If anybody excrete on some one's head then he should pay 80 paṇa as fine⁴¹. If anybody tries to beat the person of same age and caste then he should pay 12 paṇa as fine and if one beats person of other castes he should pay 24 paṇam as fine.

Brh says, if any body beats anyone with stone, rocks or wood then he has to pay 2 'marṣhāvum' as fine. If he got injury and blood came out, then he has to pay 4 'marṣhāvum' as fine. If

⁴⁰ Viramitrōdaya – page 327 & vyavahāramayūkha – page 100

⁴¹ Viramitrōdayam-page71 & vyavahāramayūkham-page-100

a person beats someone slowly and the blood cloats, then that person should pay 32 pana as fine. And if the blood comes out then he has to pay 64 panam as fine⁴². Manu says: at the time of 'Ādi Siṣkṣā' if the skin scratches and the blood comes out then that person should pay 100 paṇam as fine. If flesh comes out, then he should pay 6 'Niṣidham' as fine. Brh says, at the time of beating, if skin scratches, then he will get Pradhama sāhasa punishment of not less than hundred pana. If the flesh comes out then he will get Madhyama sāhasa punishment not less than 500 paṇa. And if the bone is broken then he will get Uttamasāhasa punishment of not less than 1000 paṇa as fine. If one kills anyone then he will get the punishment of death. Kāt says, if any body cuts off the ear, lips, nose, feet, eyes, tongue, hand of someone then he has to pay Uttamasāhasa as fine. If any body makes injury by beating, then he has to pay Madyamasāhasa as fine. Manu says: if any body make injury to any man or animal on the basis of injury fine will be charged. Nār says: if a lower

⁴² Vyavahāramayūkham- page- 100

caste man hurts a Brāhmaṇ with any of his body- part then that part of the particular person should be cut off.

If a Sūdra makes any harm or injury knowingly or unknowingly then he should be tied on the legs of a buffalo and should be pulled along till death. If a person thinks that King is responsible for all his problems then that fool should be put into fire. Yama says, in saint Manu's opinion if a lower caste person injures a high caste person by any of his body part then that part should be cut off. If low caste person and high caste person, both want to sit on a same place, then the low caste person should be burned. If any one spits on some one with proud, then his/her lips should be cut off. If passes urine, then that part should be cut off. If any body pulls someone hair, then without any doubt his hands should be cut off. If someone pulls somebody's feet, nose, neck etc then his hands should be cut off. If anybody hurts or injures anyone's body parts, then he should give treatment to injured person and should help financially. Manu says, if anybody wife, son, servant, brother, student,

makes any mistakes then he should be beaten with stick or rope. If wife makes any mistake then she should be beaten with rope or something. If anybody is beaten with a stick, on head, face or any front portion, and the blood comes out, the punishments are the same. Nār says: if son makes mistakes knowingly then father will give punishment. If neighbors get a bite from monkey or dog then the owner will not be responsible, if they are kept with the owner in a safe custody, the neighbours are bitten by such animals then the compensation should be given to the neighbours. Yājñ says: if anybody gets a bite from a dog in the presence of the owner who domesticate these dogs, cows, elephants etc then he should give the compensation to the concerned person. After that if the owner is not keeping them in chains, the animals and again any problems happen, then the owner should give double compensation. Brh says, if one beats or kills someone in a lonely place and not getting any proof of dead person, then by right evidence or idea it should be cleared. At the time of arguments if two persons fight with each other,

then the punishments should be equal for both of them. In that, if one beats more than the other, then he will get more punishment.

Yaj says, the person who beat animals like cow and goat, he has to pay 2 paṇa as fine, if blood comes out while beating then, he has to pay 4 paṇa as fine. If the horn is broken then he has to pay 6 paṇam as fine and if the hands and legs are broken then he has to pay 8 paṇa as fine. If members of animals like cow and goat is cut off while beaten and the animal dead, then the person has to confess for madhyamasāhasa and should also give money to the owner.

Kāt says, if anyone kills birds then he has to pay 3 paṇam as fine. And if he kills animals like cat, dog, pig, then he has to pay 12 paṇam as fine. Manu says if anyone take cows or buffalo which are used for vedakarmas, for taking leagues, then that person should pay fine for prathamasaṁhasam and if he kills the animals mentioned above, then he has to pay fine for uthamasāhasa. Viṣṇu says: if anyone kills elephant, horse, camel

or cow, then his legs and hand should be cut off. If anyone sells bad meat, then his leg and hand should be cut off. If anyone kills dog or pig, then he has to pay 100 paṇa as fine and also he should give money to the owner of these animals. And if anyone kills worms, he should pay one 'karṣṇāpaṇam' as fine.

Manu says, if anyone kills a man, then he has to pay 1080 paṇa for Uttamasāhasa as fine. If anyone kills cow, camel, elephant, horse etc then he has to pay 540 paṇa for madyamasāhasa as fine. For uttamasāhasa in Manu's narration is said like this- 'Cōrakhalviṣām' and 'ardharūpam'. Kāt says, if anybody kills animals, he has to give another animal or the fixed rate of that animals in return.

Yājñ says, punishments given for cutting of trees as follows- if the branches of peepal are cut off, then that person should pay 20 paṇa as fine. If big branches are cut off then he has to pay 40 paṇa as fine and if the tree itself is cut off, he has to pay 80 paṇa as fine. If any one cuts the branches of trees which give shade, trees on the boundaries, the trees which are

there in temple and sacred places, then he has to pay double fine and if he cuts the tree itself then he has to pay 80 paṇa as fine. And if the palāśa tree is cut off which is used for yāgas, then that person has to pay fine according to it's position. Kāt says, the punishments given for the harsh words and assault can be done on the basis of caste and quality according to the conditions.

Stēyaprakaraṇa (theft).

Manu says, if a thing is given to be kept safe in a place and someone comes and takes it by force, then it is known as sahasa. If that thing is taken by someone else and he is not ready to accept that and says that had not done that, then it is known as 'stēyam'⁴³. Nār says, Dravyas are of three types- kṣudradravyam, madyamadravayam and uttamadravyam. These are mentioned by the saints and monks. Mud pots, chair, coral, Skelton, trees, skin, grass, straw etc all these things are kṣudradravya. Clothes, cows, metals, except gold and silver are known as madhyama dravya. Gold, diamond, silk, elephant, horse etc are uthama

⁴³ Veeramithrodayasya vyavahara prakasa- page- 395.

dravya. Thieves are two types – prakāśa' thaskara and aprakāśa' thaskara. Nār says, those who pretend to be a drunkard, mad man, fool etc are called aprakāśataskaras. Those who get into house and do thrust, those who take money, gold and every thing from the passengers, those who do theft of cattle, grains etc are known as aprakāśa' thaskara. Thieves are of seven types. Those who steel by making holes in the walls, robe another people on their way, who kidnap men and women, those who steel coins and rupees, those who kidnap wild animals like elephant etc are called thieves. Manu says, officers have to be posted in each and every corner to catch thieves and these officers who catch the thieves are given awards by the higher authorities. These are mentioned in vyavahāramālā. Thieves should be caught and king should confirm them as thieves and give punishments according to their theft. While punishing thieves, king has to think properly and give punishments of death. By this, king will become famous will have more prosperity. If king does not take any action against the thieves,

then his country will be in dangerous situation and he will not get any blessings of god.

Those who make malpractices in price, weight, doing signature etc, must pay 1080 pana as fine for uthamasahasa. Yāj says: those who do black-marketing should be punished. If malpractices are done, in the case of medicine, oil, salt, perfumes, grains etc then the concerned person should pay 16 pana as fine. Those who say bad things about the goods and those who take goods without giving taxes, those who take goods by corruption, all these people have to pay 1/8 part of fine. 1/2 part of tax should be taken for the goods which are kept for sale according to king's orders. If king restricts the sale of these goods, if any one tries to sell the goods like diamond, gold etc without the permission of the king, then the king should confiscate the goods directly. If the patient is suffering due to the carelessness of the doctor or if the doctor is prescribing false medicines without knowing the intensity of disease, then the doctor must be punished as the thieves.

The doctor, who can not understand the disease and they cannot prescribe the medicine, tests those medicines on animals, will get fine for Pradhama sāhasa. If it is to test on human beings then he has to pay fine for Madhyamasāhasa. The person who mixes up copper and other metals with gold and the person who sells old meats would be punished by cutting any of his three parts of the body and he has to pay fine for Uthama sāhasa.

The cloths which have given for laundry and that man take himself it then he has to pay 3 paṇa as fine. If he sells the above mentioned cloths, then he has to pay fine for 10 paṇa. Or if the clothes are missing, then he should give the money according to the value of the clothes.

Punishments for adulteration.

Brh says, for selling a defective product, if anyone mixing up some other product then he has to pay 8 times of the commodity. Similarly punishments are given for theft, robbery, cheating etc. For e.g. taking the skin of a cat and marking dots on it and selling as the skin of tiger, paint red colours on glass

and selling it as blood, colouring ordinary clothes and selling as silk clothes, mix up of other woods as sandal wood. Such practices of adulteration are existing in our society. Manu says, the man who is most sinner in the world and the man who commits the great cruelty, should be cut off into pieces. Nār says, if gold, silver, bronze etc are burned and beaten, thin rod we got, is found to be less in quantity then we can understand that something is mixed in that metal. Yāj says, if gold is put into the fire and burned, its quantity is not becoming less, then we can understand that it is pure gold. Manu says, if the concerned metal has mixing with other metals then the concerned persons have to pay 12 paṇa as fine.

If dress, blankets etc are handed over to anyone and if it was lost then he has to give another blanket or pay fine on the basis of its value. If thieves get into house by breaking the walls and take all things then the thief's hands should be cut off. If any one kidnap a gentle man or a lady and take all their ornaments, then he has to be killed. If he makes harm or injury

to them, then he has to give additional punishments. If any one kidnaps a lady then he will be burned by iron rode and be killed. If a man is kidnapped then, the culprit's his hands and legs will be cut off and thrown into the street. If anybody robs any strangers on the road then he will be put in jail. Those who do spy works, robes, assaults, make harm etc then he will be put in the prison and give punishment to death. If a person takes cows without the permission or consent, he should be killed by sinking his head in water. Without permission, if anyone takes horse, elephant etc then he should also be put in prison. If anyone rob purse, then his two fingers should be cut off. If he does it again then his hands and legs should be cut off. If he repeated again then he should be sentenced to death. If anyone does cheating in gold and silver business then he has to be sentenced to death. Yama says without asking if any one takes good grains then he has to pay 100 paṇa as fine. Those who take tea, coconut, small grains, milk etc without any permission then he has to pay the double prescribed fine. If anyone steels vessels

including mud pot, cotton clothes or silk clothes then he has to pay fine according to its condition. If thief attacks house owner and take all the things then his legs and hands should be cut off by the king. If theft is done by a student who studies veda adhyāya then he has to pay fine and should return the things to the owner. If theft is done by a Brāhman then he should be thrown out of the country or give punishment of death. Manu says, if the person (thief) caught with the proof, is denying, then without any doubt he should be sentenced to death. Nar says, if cows and cattle's are robbed then by checking the foot prints of cattle's and the man, thief can be found out. Manu says, thieves should be searched in these places— public place, places where functions are conducted, bars, hotels, old estates, fields and goldsmith's houses etc. The thief can be recognised by questioning the suspected persons, change of thin voice and by noting the changes in expression and voice of persons. We have to confirm the theft questioning people like drunkards and people who enjoy life without any source of income. While

deciding the thief, we have to confirm whether he is perfect or imperfect. The King should find out the thieves from his country and gives punishment. Vyāsa says, if anyone tries to hide the thieves or tries to protect him then that person should be punished. If at the time of theft in a house, neighbors are not coming forward then the neighbors should be punished. Those who sell or buy the theft product, then they should be considered as thief and should be punished.

Gautama says, those who give ideas and encouragements for theft and also give all help for theft they should be punished. Kāt says: the punishments for theft can be on the basis of caste. If the theft is done by Sudra then severe punishment can be given according to dharmasāstra. Manu says: if the theft is done by sūdra then the punishment will get as fine. In towns and villagers perfect security persons should be appointed. In towns security guard's area should be around ten nāzhika and in village it should be around 2 ½ Nāzhika. In these places where the securities are appointed and the thief is not caught then the

securities have to pay the fine. If a theft occurs in a country and the theft is not caught then the king is responsible for the lost goods or money. The king is responsible for the payment of the goods or money. If due to the laziness of the king, he fails to find out the thief, he will have to face Dharmahāni. If the things of common people are stolen by a thief and it is not found out, then the king is liable to return the lost goods within one year.

When stolen articles are found out by the officers then the king has to keep them under his safe custody, for three years, if the real owner of those articles has not claimed. If the real owner claims his lost articles after three years, the king shall return it after deducting $1/12^{\text{th}}$ of the value or its goods. If the stolen articles found out are claimed by a person who is not a real owner, then the articles should be given only on the basis of clear proof. If anyone steals the swags found out by the officers and kept under king's custody, are stolen again, then the thief should be given the punishment of pulling along by elephant tying on its legs. If any one takes fruits which is kept for another

person then it will not be considered as theft. If grains are kept in house or some other place and some one takes it without the permission of the owner then he will not be punished though he reveals the truth later.

Sāhasa prakaraṇa (Crimes of violence).

Brh says, murdering people, bad behaviour towards women, touching with bad intension and living with other women having contacts with them are considered as sahasa. They are five types⁴⁴. Things done on compulsion or with proud, without proper thinking, are all considered sahasa. Sāhasa are of three types- Prathama sāhasa, madyamasāhasa and uttamasāhasa. All these have their own symbols.

If any one indulge in destruction of agricultural products like fruits, grains etc and misuse of water, then he should pay fine of prathamasāhasa. If any one destroys clothes, rice, vessels etc then he should have to pay fine of madhyama sāhasa. Murder by poisoning, murdering by weapons, attacking other

⁴⁴ Vyavahāramayūkham-page- 103

ladies and attempt to kill anyone etc are punishable and liable to pay fine of uttamasāhasa. Nār. Says, for each sāhasa, there are different types of punishments. For pradamasāhasa as a fine is not less than hundred paṇa and madyamasāhasa as a fine is not less than 500 paṇa. Uttamasahasa, as a fine is not less than 1000 paṇa. Yāj Says, A person behave properly to father, son, brother, sisters, wife, husband, teacher, students, then after a long time any problem is created between any of them, then they have to pay 100 paṇa as fine. If a person takes or destroys other's cloths or money, then he has to pay the money to the owner and pay fine and makes the owner happy .If any one insults Brāhmaṇ by providing something which cannot be eaten, then he has to pay uttamasahasa as fine .If it is done by kṣatriya then madhyama sāhasa If it is done by vyśya then prathamasāhasa and if it is done by śūdra then he has to pay half of all these fines. Yāj. Says, if anybody finds out the evidence of quarrels between the parents, then he has to pay three paṇas as fine. Manu says: if any one destroys the wall of house, then he will be thrown out of

the country as soon as possible. If anyone breaks dam or sēthu he should remake it and also he has to give fine for uttamasāhasa. Ladies who indulge in giving poison to people, putting fire, killing teachers, husband, children etc should be given punishments of cutting off the ear, hand, nose, lips etc and be pulled along by bulls tying them to their legs and be thrown away. Those who put fire to land, house, village, cattle and those who maintains immoral relationship with royal ladies, should be burned as punishment.

The people who live as spy in other country and issues orders on behalf of kings, kill the soldiers, women, children, Brāhman̄s etc all these people should be killed. If anyone gives a kick to a pregnant lady and tries to make abortion then it will be Uttamasāhasa and he should be punished. Brh says, punishments must be given to the thief by the King by ignoring all the commitments and affection. Boudhāyanan says, Kṣatriya, Vysya and sūdra, among these, if any one kills a Brāhman̄, then his all assets should be taken and he should be sentenced to death. If

occur murder cases between Kṣathriya, Vysya and Śūdra then the punishment should be given according to their circumstances. Brh says, if 8 or 10 people kill a person then, among them, the main killer will get the punishment of death, others will be sentenced to pay fine. Nar says, the above punishments are equal for Brāhmaṇa, kṣatriya, vysya and Śūdra. If a Brāhmaṇ kills another Brāhmaṇ then he will be sentenced to death penalty. Yama says, Brāhmaṇa should not be given punishments of beating or death but he can be put into jail. This statements is seen in Vedas.

Brh. Says, In murder cases investigations must be done. After collecting details about the killed person, house, surroundings etc. suspicious persons should be arrested. The case should be investigated on the basis of clues and proofs. At the time of investigation of murder and theft, the suspicious person should be questioned and if he is denying then he should be tested whether he is right or wrong. These ways can be applied in each and every crime.

Those who put fire on houses, give poison, kill others by weapon, rob others land, house, doing black mailing etc are known as Himṣātmakāḥ or cruel people. If anyone, boy, old man , priest, Brāhmaṇ, grief stricken person, comes with a weapon with the intention of murdering, he should be given punishment of death without any trial. If a hard working person is not getting good rewards, and he becomes disappointed and commits suicide then he is considered to be a big sinner. A person of good character does yajñaś, studies Vedas, and tries to kill some one then he has to pay fine.

Strī saṅgrahaṇa prakaraṇa (Adultery and rape).

Manu says, if a person helps a lady without her permission, touch her dress and ornaments by teasing, sits together in a coat or some where else then it will be known as strī saṅgrahaṇa. Brh says, strīsaṅgrahaṇa is cause of sin and are of three types- by compelling, by black- mailing, by rape. Again strī saṅgrahaṇa is of three types – pradhama, madhyama, and uthama. A lady who is not closer to man, a lady who drink

liquor and if she is compelled to inter course then it will be known as rape. Calling others wife to own house gives her drinks and doing whatever he wants then it is known as black mailing. Looking women with bad intention giving money, by beauty etc are also included. Brh says, if men and women see each other with romance, sent messages, touches clothes, ornaments etc are considered as pradhama saṅgrahaṇa. Giving sandal, perfumes, flowers, nice fruits, good food, good clothes etc and talking romantically to ladies in a remote place considered as madhyama saṅgrahaṇa. If a man and woman sit together and kiss each other etc are known as uthama saṅgrahaṇa.

There are some punishments for the people those who are doing above crimes, those who does the crime of pradhama saṅgrahaṇa, has to pay fine for pradhamasāhasa. Those who does the crime of madhyama saṅgrahaṇa, has to pay madhyama saḥāsa. Those who does the crime of uthama saṅgrahaṇa , has to pay fine for uthamasāhasa. Sculptures, priests, monks, hermits

who enter to the house of others without permission and talk with the women, have to be arrested by the officers. If husband prohibits wives of talking with others, if wives do the same commitment then they have to remit gold as fine. Yāj says, despite the prohibitions made by the husbands, the wives are talking to others, then the woman has to pay fine of 100 paṇa and the man has to pay as fine 200 paṇa. Manu says, if some one's wife is married with the person of the same caste or a person who belongs to backward caste then the person should be exiled from his caste and also from country. Except the brāhmaṇas, if kṣatriya, vṛ̥śya, śūdra, mingle with the women-prostitutes then the maximum punishment will be imposed up on them. Brh Says, by telling lies, if a person brings someone's wife to his home and rapes her, then the person should be exiled from his country and his belongings should be confiscated. Yāj says, the neighbours, of the same caste, and married, indulged in intercourse, then they have to give fine for uthamasāhasa. If a man has intercourse with the woman of low caste, then he has to

give fine for madhyama sāhasa. If a man indulged in intercourses with a woman of higher caste, then he will be sentenced to death. As mentioned above the woman who indulge in intercourse with worst type of men, then his nose ears etc will be cut off. Any one engaged in intercourse with other woman of other casts, bringing prostitutes to house and making contacts with prostitutes, has to be sentenced to death or life imprisonment. Those who behave badly to their father, mother, sister, daughter, guru's wife etc they are called guru thalpaka or mahapapa. Those who behave similarly to close relatives, then they are also called by this name. If a Śūdra indulge in intercourse with a Brāhmaṇ's wife then he should be tied with grass and should be burned. And also ladies hair should be cut off and making her naked and keeping a lamp on her head and should do a ride on the donkey in the street. If a kṣatriya or vṛ̥ṣya intercourses with a Brāhmaṇ lady then he should be tied by wet cloths and burned. The Brāhmaṇ lady also has to do this and ride on donkey and should be pulled on the street. One who

indulge in intercourse with the king's wife or vṛśya lady then he should be tied with wet clothes and put into fire. If a Brāhmaṇ lady has intercourse with a śūdra because of caste desire, she should be bitten by dogs and pulled along the street by donkey. If a lady goes to other house and have intercourse of sexual desire then that lady also should be punished according to the above mentioned things. The lady who cheats her husband and lives with other person, should be bitten by mad dogs and her nose and ears should be cut off. Brh says, if a lady who is raped should be kept in a separate house giving her poor food and old clothes.

(Dūta samāhvaya prakaraṇam) Gambling and Betting.

Gambling with pawns, skins, teeth, coins etc and pull or fight of birds, goats etc are called Dūta samāhvaya. All this will create cruckedness. Brh says, the game of fighting of animals like birds, hen goat etc till their death, is called Samāhvaya. Apart from this, gambling with elephants and horse is called Dyūta. Dyūta and samāhvaya are harmful to the country and so

it should not be entertained. If these games are played secretly it should be prohibited. They are most harmful to the kings. Manu says – the king should order death penalty for the person doing gambling and cock fight and also to the person who is disguised as brāhmaṇa and went to śrādhacerimony⁴⁵.

Kāt says, if the game is to be played openly it should be in the presence of king as a contest and the money for playing should be deposited before gambling. Yāj says, in betting and gambling the defeated person should give the money to the winner and their mediator. If the winner person gets 100 paṇa, five paṇa should be given to the mediator and if it is less than 100 paṇa, 10 paṇa should be given. Kāt says, in the above mentioned manner the defeated person should give the amount to the winner within 45 days. In the stage, while playing dyūta mediator should take steps in order to avoid quarrels. The share of the king should be given. If the mediator does not do the above mentioned works, the king should do it. If the gambling is

⁴⁵ Vyavahāra mayūkha – page 109

played secretly the king is not responsible for giving the same⁴⁶. Yāj says, in gambling mediators are witness. If a dispute arises witnesses should solve it. The persons who play artificially or by false method, they should be made bald-headed and should be expelled from the country. Those who play with the animals also should be given the above mentioned punishments.

IV. Property rights.

Dāyāvibhāga prakaraṇa. (Partition)

Under the Dāyābhāga law, father has absolute powers of property and has the right of his share on the property. VM states details of Vibhāga or partition as follows. It is the allotment to individuals of the particular portions of wealth of joint ownership. Partition can be affected in different ways. Among them the property inherited by a male from the ancestors like father, grandfather or grandfather's father will have all the characteristics of the Dayabhaga system. In accordance with

⁴⁶ Ibid-page-108

Dāyābhāga, persons entitled to share on partition are son, grand son and great grand son. Partition puts an end to joint family status. The partition as a process by which joint ownership over the entire wealth is reduced to individual ownership. VM gives provision for additional shares for the eldest son. In modern law it has practically disappeared and the rule of equal division prevails. But after the father's death, the sons can make only an equal division.

Manu says, the objects which are not allowed for partition are as follows – money gained from education, income from job, income gained from one's courageous activities, dowry gained from marriage, money obtained from agricultural activities, money given to a person due to affection. In the same manner if one person acquires ancestry wealth by force, he is not eligible to enjoy them.

The wealth gained from education are of the following types – money gained from education acquired from strangers, the reward given to the teacher- Gurudakṣiṇa, the money

obtained from participating in other person's yaga and doing religious activities or rituals, money gained from the teaching of Vedas etc. On other hand the person who is getting income out of education enjoining his ancestral property has to divide his income communely among all the members of his family. Kat. says the above mentioned wealth gained from education may not be partitioned among the brothers who are not educated. If the persons are having education equal to one's status or more than that the wealth gained from education can be partitioned. Nār. says the wealth gained from courageous activities, education, dowry, alms given by father etc are not eligible for partition. Brh. and Manu say the property of grand father or father, dowry gained from courageous activities or by force full means, wealth gained from work etc may not be partitioned without their consent. Before partition the clothes, ornaments, which is in written documents etc should not be partitioned. Water in the well, the path near the house etc should not be partitioned. In the same way if there are more than one servant they should be

given wages after sharing the work equally. In a family where the head of the family looks after all the affairs, and the educated members earn wealth, that wealth should be given to the head of the family. If in a family the members are not educated and earn money from other jobs, that money should be divided equally among themselves.

Vyāsa says, vehicle or weapons bought by using ancestral properties, should be divided among the family members. In this the person who bought the object should be given one more share. According to the Śāstras the works or activities should be done by men and women. When they are living together and if the husband is in foreign country doing his job, the following things should be done –women should be kept at home - occasion for enjoying freedom should not be given to women. If the women are performing activities under their own leadership, they should be brought back from that by forceful means. The women should be looked after and protected in their child-hood by their father, in their adult-hood by their husband

after marriage, in their old age by their son. In the absence of above mentioned persons, they should be protected by scholars. There is no need for women to work indepentantly. In all periods women should be protected. If a woman is married to a person ^wwithout revealing the disadvantages of her , the person ~~who~~ brought up the girl should be fined according to Uthama sāhasa. If a person abuses his wife who has not committed any guilt, should be fined 100 paṇa. After marriage if husband reveals wife's guilt, he should be fined 100 paṇas.

Women should be careful not to make situation for mingling with other strange men. In the adult hood women should be brought under commands of elders and thus should be protected. This implies that women should not be left to do activities on their own accord. Wives should live according to the commands of their husbands. The children should be brought up such circumstances. After the birth of the child both wife and child should be protected by giving good medical care.

The children born out of illegal relation with other men have no effect.

If the woman who is youthful, is living on her own accord without obeying her husband or relatives, should be brought in front of the villagers and should be exiled from the country on the charge that she has done fetiside. If the woman after ten years of marriage does not give birth to a child or fifteen or twelve years she can be abandoned. This type of woman can be left for living separatly or can be married to some one. The woman who is always quarreling with her husband can be abandoned. If the wife lives with another person apart from her husband should be kept in another house. Noble woman should always stand up when they see teachers and should respect and do rituals to them. The woman who stands every day infront of the house, the woman who is always looking at males and smiling at them, the woman who has dealing with the cruel person etc are not noble women. If the husband lives in foreign countries their wives should be set apart from entertinements

like game. The following matters should be considered—avoidance of make up, avoiding public gatherings, avoiding festivals or sight seeings, do not go to stranger's houses, do not travel in vehicles etc. After the death of husband, the wife should sacrifice her life jumping into the pyre of her husband. By this deed she will be considered equal to goddess Arundhati and will attain heaven.

After the death of husband, the wife should not enter into another pyre created by her. If the funeral of the husband is done far away, the wife should take his chapels with devotion and care and thus should enter the fire. The woman who performed in this manner will get a place in heaven. Even though the husband is a cruel person and the wife has her own chastity, husband will attain heaven. The wife should follow or perform the above mentioned laws.

The partition of the properties of parents by sons among themselves is called Dāyābhāga. This is a term used in Vyavahāra. Manu says after the death of the parents their

property should be devided among their children. The children should not claim the property of parents when they are alive. If the father does not have interest on his property, he can devide his property among his son when he is alive. On other hand the sons should not do partition of the wealth when the father is alive, without his conscent or by forcefull means.

After the death of parents, the property should be devided among the sons. If the mother reaches old age, even though she is alive the property can be partitioned. At the time of partition if there are unmarried sisters in the home, they should be given their wealth. In the same way property can be partitioned even if the father is alive with his consent. The son who enjoy the property and spends it without the consent of father who is alive are eligible for punishments. If the brothers are living at home wants prosperity they should do household affairs with unity. If they are living together they will get prosperity in terms of money. If the object is the prosperity in spiritual affairs or deeds dealing with dharma the property should be divided equally

among sons and they should live separately by making their own houses.

The ancestors say that if the brothers are living together there will be prosperity in terms of money and if they are living separately there will not be prosperity in deeds dealing with Dharma. It is because of the fact that when they are living together only one person will do rituals such as Dēvapūja, Br^{ah}maṇapūja, Śrādha and Bali. If the brothers are living separately in defferent homes, the above mentioned rituals will be done separately and there will be progress. Dharma and wealth must be do their own duties in separately. The ancestral properties made by grand father, father etc, such as home, land, gold, silver etc, which are capitals can be enjoyed by sons after the life of their father. If the father is alive this property can be divided among father and sons. The judicial system was the king or wealthy men give charity to merchants per month the prescribed money on the basis of Dharma is called 'makama'.

There is a clause that the property can be divided among the sons and all with the consent of father even when he is alive. Manus says, if the sons are living together enjoying property commonly, the profit attained should be divided equally themselves. If the father reaches old age he should divide the property among his sons by himself. If the father leads immoral ways of life and the sons fear that the property will be ruined, the property can be partitioned without the consent of father. Brh says, Father can partition his wealth to his sons in such a way that the eldest son will get more and the youngest will get less than that. All these should be accepted by the sons. Father has the authority to divide his wealth in his own accord. This clause comes under Dharmanyāya. There is no need to quarrel in this subject. The property got from father can be enjoyed and divided by the son in his own wealth. It is because of the fact that the eldest son is the person who frees from *pitṛ-ṛṇa* the debt of father after the death of father the eldest son will be the head of the family. He should partition the wealth to his youngsters.

Eldest brother should be considered as equal to father. Yāj says, after the death of parents if the sons are dividing the property the debt of ancestors also should be divided equally. The money calculated for meeting the expenditure in life by the ancestors should also be equally divided and it should be shared to them. Yāj says, if the father and father's elder brothers are living together without partition of their wealth, sons can divide the share of father's wealth among themselves. The sons born to woman of equal status will have property rights. The sons born to woman who are not noble will not have partitioned rights. If the brother's quarrel and one person expresses the mentality of miser, and not come for vyavahāra, the other wealth should be partitioned.

Brh says, The son born in ignoble caste, not have property right. Only those persons who are entitled to perform pitrukarma will have property rights. Brh says, just like the cow which is not conceived; the son who is born to other persons will have no benefit to his father. The sons of down-trodden ,

hijaddas, handicapped persons, mad persons, the immature persons, blind persons, the persons with incurable diseases etc will not have share in father's property. As the son of downtrodden possesses patitya dosa, he will not have share in property. The hijadas should be given clothes and food without disadvantagous by the sons of other children. Kṣētraja means the sons born in one's wife by another. In kaliyuga, kṣētraja sons are to be neglected. He will not have claim on father's property..

After the death of parents if sons are deviding the wealth eldest son's share should be kept apart for somebody. Unmarried sisters and the brothes who have not performed Upanayana, they should be given one fourth of the property. If there is only one brother and somany sisters, the brother should give one fourth of the share to his sisters commonly, if he does not give the share, he will be considered as downtrodden or Patita. When there is partition of common wealth doughters can take the ornaments and clothes used by their mother among themselves. At that time of the partition of fathers property, the

debt of father should be shared and the other wealth should be equally taken. The expences for rituals such as Śrārdha and Bali after the death of father should be set aside from the common property. If there are debts made by father, they should not be compensated by taking money set aside for rituals such as Balidravya. The home equipments , animals, servants, other houses etc should be partitioned equally by the family members. If a family member takes possession of these items he should be made to under go Kōśapāna which is a trial for justifying truth.

Strīdhana – dowery.

Dowery is of six types-such as Adhyagni, Adhyāhavanika, prītidatha, dowery given by brothers, by mother and by father. Apart from these the ornaments given as presents, currency etc given by husband will also be considered as dowery. Kāt says, the dowery given at the time of marriage, fire as witness is called Adhyagni. The dowery gained from father in the presence of her relatives is called Adhyāhavanika. The wealth or money given by the husbands or the wealth given to

daughter-in-laws due to affection is called *prīṭidatha*. The dowery given by brothers, mother and father to the bride after marriage is called *Soudāyika*. The dowery obtained from relatives apart from husband or husband's family is called *Anvādhēya*. The equipments of the house which is received as dowery, ox, horse, cow, ornaments, servants, capital etc are called *Sulka*. The ornaments given by husband to wife can be enjoyed by her, even after the death of her husband. When the husband is alive she can keep them herself or can be given to husband's family for security.

On the dowery, received by woman, her husband, son, father, brothers etc will not have any claim. If the above mentioned persons such as husband take the dowery of the woman, that should be returned along with interest from the date itself. If one person enjoys dowery with the consent of woman and if he becomes wealthy, he should return the dowery. Yājñ says, at the time of scarcity of Dharma, at the time of disease, at the time of imprisonment, quarreling or if the husband spent the

dowery of his wife, and if he does not wish to return it, he is punishable.

Kāt says, woman without shyness , spend thrift, prostitutes, the woman who does contradictory things etc has no freedom on her dowery. Yāj Says, If father face to give the agreed amount of dowery, due to his death, his sons should give the dowery to his sisters.

If the woman who recieved dowery passed away, her daughters, her grant daughters and grand sons have rights over the dowery respectively. If there are no children, the husband or relatives can claim right over the dowery.

Marriage.

Marriage is of eight types. They are panigraha, brahma daiva, arsa, prajāpatya, gāndharva, asura, rākṣasa and pṛyācā. In pāṇigrahaṇam woman dies and, if there are no children, husband can claim over the womens dowery. If the husband is not alive, husband's brothers can possess it. In the above

mentioned eight marriages if there are children they can have claim on the dowery.

If the woman passes away, her children will have right on the dowery. If there are no children, husband and relatives will have the right over the dowery. If the woman who received the dowery and she dies, the relatives such as uncle will have right over her doweries. Goutama says, the unmarried daughter of the dead woman should have the first claim over the dowery. Married daughters will have a claim only after it. After that child less daughters and legitimate daughters will have the claim respectively. The term *apratisthita* signifies childless and mongless daughters. Brothers can have a claim on the dowery given by brothers to sisters after sisters death. The mother can have a right on it. In the same way after the death of a woman no one can claim the presentations given by others at the time of marriage.

Manu says, daughters can have a claim over the dowery of mother who has passed away. After that the grant daughter's

can have claim on it due to affection. Manu says, if a Brāhmaṇa marries both a Brāhmaṇa woman and kṣatriya woman who is childless, the child of Brāhmaṇa woman who belongs to the upper class can have right over the dowery given to the kṣatriya woman by her father. In the same way if kṣatriya and vṛśya marries similarly, the dowery of the woman of lower class who has no child, can be claimed by the upper class woman's child. It is due to the reason that on the basis of castes, right over the dowery changes. After the marriage of a woman and after receiving dowery as 'kanyādānam' in the marriage, when the woman is brought back by her people, the husband can demand fine and interest, from the woman's relatives. If the marriage with a woman is decided to a person and after that another person makes request for marriage with her the first person can be avoided.

Brothers of unmarried women can have the ornaments of her after her death, ornaments being used by her at the time of her living or given to her by the relatives. If there are no

brothers, parents can have it. Children and grand children can have claim over the money of stepmother, who has equal status of mother. After dividing the property and money of father if brothers keep a part of some property, they should also be divided equally. Debts also have to be shared equally.

Son.

According to Dharmasāstras the son born to the married woman is called Aurasa. He is the legitimate son. The adopted son is called Dattaputra. The son born to the downtrodden class is called 'Kṛtaputra'. The above things are mentioned in the work Smṛiti Chandrika. In kaliyuga there is no mentioning about the division of property to Kṛtaputra. They have no advantage. In Kaliyuga the legitimate son is 'Aurasa'. The son who is to be adopted should be from other clan with good merits. He should be eligible to control the wealth and clan. After adopting a son if another son is born to the step mother ¼ of the wealth of adopted son should be given to the new born child.

Manu says, the son is the person who safe-guards father from the hell called 'Pum'. At the glance of the sons face after his birth, father frees from the debt called 'Pitr-mā'. He would attain heaven. Father will attain welfare by children and grand children. He will have opportunity to come to the "world of Sūrya", if he sees own children and his grand children. Brh says as the boat which is not so strong is sinking in water, due to a storm water, he will reach dark hell due to useless son.

Wife.

If there is no person eligible for claiming ones property, his wife can do the same, as she is the supreme. since wife should do sacrifices for her husband, she can have the full property of her husband, the wife first deserves the property.

In the Vedas, D.h.s and worldly customs wife is considered the half part of body and soul of her husband. She has equal status in husband's good and bad deeds. Even though there is parents of her husband, wife has right over husband's property. Brh says, after the death of husband in the devision of

property, if her brothers and mother stay as obstracles, this matter should be informed to the king and king should order punishments as in the case of thieves. If the person who died, has no son and wife, but he has a daughter, she can claim over father's property, just as a son. No other person can claim over that. Viṣṇu says, if the son and the daughter are not alive, relatives can claim over the property. Dēvala says, if a person dies without son, his property should be divided among his brothers with the consent of mother. If the brothers are not agreeing to take that property, mother can have it.

Manu says, if a person dies with out son and grand sons, mother can claim over the wealth. If a person dies with out children and mother, his brothers can claim the property. If there is no father, brothers can divide the property among themselves. In the work 'vijñānēśwariyam' it is said that if a person dies with out a son, wife can have his property, if there is no wife his children can have it; if he has no children his brothers can take it. If he has no brother, brother's children can have it. And in their

absence close relatives can take it and if there is no close relatives his students can have it. In the four classes such as Brāhmaṇa ksatriya etc the devision of the ancestral property is as mentioned above. If among the children one person is a hermit he would not loose his share in the property. If a brother dies his share should be devided among his other brothers.

After the division of property one person having share in it, earns money by education or some thing, and if there is devision of property for the second time in the home, the owner of the money should be given two shares and others should be devided by the balance equally. After witnessing, bailing, giving and taking alms, the brothers can exchange property themselves with each other. Before the partition the brothers can not do the same.

V. Prakīrṇaka prakaraṇam (miscellaneous matters).

As the vyavahāras mentioned in prakīrṇa pāda depends up on king's decision, King should enquire in to the following matters which comes under Prakīrṇa prakaraṇa, violation of

royal command, sitting in the king's thrown, rewriting the orders of the king and informing it to the public, the religious convertors, prostitutes etc. The prakīṛṇaka contains the dharma done by the king in his country, his punishments and above all the doubtful subjects set a part from vyavahārapāda.

Nār says, according to the cāthurupāyas that is sāmā ,dāna, bhēda, danḍa King should safe-guard the country. As the country ruled by the king is splendid with the dharma of Brāhṃaṇa, and Kṣatriya, the people in the country will not do any cruel deeds. Piṭāmaha says, great kings will bear five symbols such as Agni (fire) Indra (lord indra) Candra (lord moon), yama (lord yama) and Kubēra. If the king considers his subjects sorrow as his own sorrows he will be agniswarūpa. The valourous king who takes weapon and goes to defeat his enemies, is called indraswarūpa. If the king avoids anger, remains happy with good health and rules his subject, he is called Candraśwarūpa. If the honourable king sits in dharmāsana in court and considered all living being as equals

and kills cruel people, he is called Yamaswarupa. The king treats the guests, scholars those who does good deeds with courtesy by giving arms and presents, is called Kubēraswarūpa.

According to the above mentioned concepts the rules of king should not be denied by his subjects. If done so they will have to meet with severe problems. Servants must obey the king. As the female dancers imitate the male dancers, the servants have to obey their king. The king should protect the religious concepts as dharma of the Brāhmana, Kṣatriya, Vysya, Śūdra etc. Hari says: scholars who are learned the veda sāstras, do any mistakes, they will be corrected by their Gurus. The king has right to punish the cruel people, if they adopt any such crimes. If anyone unknowingly makes mistakes to the King or the gurus, then they will be punished by Yama dēva. Yaj says, people should be punished, taking in to consideration of their age, faults, property and time. Manu says, the king has the right to punish those people who forget their duties towards their

father, guru, mother, wife, son and priest. None of these people is subjected to any punishment.

Saṅghn says, the king should not give punishments, to people like parents, fasting people, priests or saints on the basis of his anger. These people increase the prosperity of the king's dharma. King should not show his anger towards children, old people and saints. Brh says, the teachers, priests etc should only be punished orally (vagdanda) by the king. In disputes, those subjected to crimes should be orally punished or fined by the King. Those who rob gold materials should be given severe punishment, such as death.

Brh and Manu says, punishments are in four ways- vāgdanda, digdanda, arthadanda and vādhadanda. These should be applied according to their order. Punishments should be applied on the basis of crimes done and the situation. Manu says, dandaśāstras or the position of dandas are of ten types. They are upasta, udara, jihva, hastha, pāda, nētra, nāsika, kara and dāna. If a Brāhman is found to be done a crime then he

should keep a symbol on his forehead and should be exiled from his native place. The anger of a Brāhmin can cause severe problems for the whole world. Therefore the punishments such as death and cutting of body - parts is not done, rather his head shaved and made to evacuate to other place. This punishment stands as to killing for Brāhmins.

The most violent crimes are assassination of brāhmins, usage of liquor, theft and raping of the Guru's wife. If people who commit such violent crimes, apologize, there is no need of any punishments. Otherwise then such a punishment is *uttama sāhasa* which belongs to fine. If the king happens to punish innocent people he will face hazardous problems both in this world and the other. People who make the way to palace untidy will be fined in the name, two karsapana.

Kāt says: if noble personalities commit any fault unknowingly need not be punished. Punishments are of two types- *śarīradāṇḍa* and *arthadāṇḍa*. Punishment such as beating, assassination and other corporal punishments belong to

sariradaṇḍa. Arthadaṇḍa are of many types. Confiscation, fine etc are of different types of arthadanda. In this way the features of punishments are mentioned in prakīraṇa prakaraṇa.