



# TAMIL NADU STATE JUDICIAL ACADEMY

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## IMPORTANT CASE LAWS



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# INDEX

S. NO.	IMPORTANT CASE LAWS	PAGE NO.
1	Supreme Court - Civil Cases	01
2	Supreme Court - Criminal Cases	04
3	High Court - Civil Cases	08
4	High Court - Criminal Cases	13

# TABLE OF CASES WITH CITATION

## SUPREME COURT - CIVIL CASES

SL. NO.	CAUSE TITLE	CITATION	DATE OF JUDGMENT	SHORT NOTES	PAGE NO.
1	Excel Dealcomm (P) Ltd vs. Asset Reconstruction Co. (India) Ltd	2015 (8) SCC 219	01.04.2015	Contract and Specific Relief – Suit for Specific Performance	01
2	Roxann Sharma vs. Arun Sharma	2015 (8) SCC 318	17.02.2015	Family and Personal Laws – Guardianship	01
3	ABC vs. The State (NCT of Delhi)	2015 (5) CTC 547	06.07.2015	Hindu Minority and Guardianship Act – Section 11	02
4	Nandkishore Lalbhai Mehta vs. New Era Fabrics Pvt. Ltd.	2015 (5) CTC 577	08.07.2015	Contingent Contract – Section 31 of Contract Act – Orders 6 and 7 C.P.C – Section 3 of Evidence Act	03
5	K.Nanjappa vs. R.A.Hameed	(2015) 6 MLJ 756(SC)	02.09.2015	Contract – Agreement – Specific Performance	03

## **SUPREME COURT - CRIMINAL CASES**

<b>SL. NO.</b>	<b>CAUSE TITLE</b>	<b>CITATION</b>	<b>DATE OF JUDGMENT</b>	<b>SHORT NOTES</b>	<b>PAGE NO.</b>
1	Rajdeep Sardesai vs State of Andhra Pradesh	(2015) 8 SCC 239	14.05.2015	Defamation - Freedom of the press and right to reputation	05
2	State of U.P vs. Satveer	(2015) 3 MLJ (Crl) 341(SC)	01.07.2015	Murder - Common Intention	05
3	State of Madhya Pradesh vs. Anoop Singh	(2015) 3 MLJ (Crl) 358(SC)	03.07.2015	Rape - Kidnapping - Age Determination of prosecutrix	06
4	Jogendra Yadav vs. State of Bihar	(2015) 3 MLJ (Crl) 448(SC)	15.07.2015	Discharge - Impleadment of Accused	06
5	Parhlad vs. State of Haryana	(2015) 3 MLJ (Crl) 455(SC)	03.08.2015	Rape - Age of Prosecutrix	07

## **HIGH COURT - CIVIL CASES**

<b>SL. NO.</b>	<b>CAUSE TITLE</b>	<b>CITATION</b>	<b>DATE OF JUDGMENT</b>	<b>SHORT NOTES</b>	<b>PAGE NO.</b>
1	Andhra Bank Vs State Bank of India	(2015) 5 MLJ 408	18.06.2015	Banking and Finance – Recovery of Money – Negligence - Liability	08
2	Meenakshi Sundaram vs. Seemaichamy	2015 (5) CTC 484	07.07.2015	Executing Court - Execution Petition – Order 21 C.P.C.	08
3	G.M. Jagannathan vs. H. Indira	2015 (5) CTC 500	03.08.2015	Evidence Act - Section 58 – C.P.C. – Section 34	09
4	N. Gangabai vs. D. Jeyachandran	2015 (4) CTC 519	10.07.2015	Eviction on ground of Own Use and Occupation	09
5	A. Venkateswaran Vs Arulmighu Poolananteeswarar Temple	(2015) 6 MLJ 557	26.06.2015	Tenancy Laws – Eviction – Illegal Possession	09
6	Sivarama Thevar Vs Narasus Spinning Mills Office	(2015) 6 MLJ 586	30.06.2015	Civil Procedure – Suit for Injunction – Ambiguous plea	10
7	Dr. L.Ramachandran vs. K. Ramesh	2015 (5) CTC 629	07.09.2015	Order 7 Rule 11(d) and Order 15 Rule 1 C.P.C. – Dismissal of Suit at First Hearing	11
8	Pappammal Vs Muthuraman	(2015) 5 MLJ 649	26.06.2015	Property Laws – Partition Deed – Possession of title	11
9	R. Aravindhan Vs K.R.S. Janakiraman	(2015) 6 MLJ 665	29.07.2015	Contract – Specific Performance – Time Essence	11
10	K. Natarajan Vs Thangaiah	(2015) 5 MLJ 707	06.07.2015	Civil Procedure – Interlocutory Application – Maintainability of – Question by Party to his Own Witness	12

## **HIGH COURT - CRIMINAL CASES**

<b>SL. NO.</b>	<b>CAUSE TITLE</b>	<b>CITATION</b>	<b>DATE OF JUDGMENT</b>	<b>SHORT NOTES</b>	<b>PAGE NO.</b>
1	V. Venkataraman vs. The State, represented by Assistant Commissioner of Police	2015-2- LW. (Cri.) 277	31.07.2015	Suicide by wife – Abetment by accused husband, whether proved, dowry harassment, proof of	13
2	P. Ravindranath vs. K. Chandragandhi and others	2015-2- LW. (Cri.) 364	27.07.2015	Further investigation – Application by the defacto complainant – Section 173(8) Cr.P.C.	13
3	State represented by The Inspector of Police, H-8, Thiruvottriyur vs. K.P. Sankar and others	2015-2- LW. (Cri.) 384	12.08.2015	Alteration of charge – Section 397 Cr.P.C.	13
4	B. Prakash vs. Deepa and another	2015-2- LW. (Cri.) 392	28.07.2015	Protection of Women from Domestic Violence Act - Entitlement of maintenance – Effect of claiming maintenance	14
5	The Superintendent of Police vs. The Judicial Magistrate Court, Cheyyar	2015 (5) CTC 511	07.09.2015	Summons to police to produce documents – IPC – Sections 174 and 176 – Cr.P.C. – Sections 345, 349, 350 and 356(1)	14
6	Principal District Judge, Salem vs. State by the Inspector of Police	(2015) 3 MLJ (Cri) 536	01.07.2015	Transfer of Case – Territorial Jurisdiction – Sections 174 and 178 Cr.P.C.	15
7	Nijamudeen vs. Inspector of Police, Avinasipalayam	(2015) 3 MLJ (Cri) 556	09.07.2015	Return of property – Custody of Cattle – Validity of	16
8	V. Koilpillai vs. State of Tamil Nadu	2015 (4) CTC 561	15.07.2015	Expert evidence – Opinion of expert – Illegal Prosecution - Compensation	16
9	State rep by Inspector of Police, CBI, ACB vs. P. Pandian	(2015) 3 MLJ (Cri) 564	13.07.2015	Charge – Discharge Petition – Alteration of Charge	17
10	M. Chinna Karuppasamy vs. Kanimozhi	2015 (5) CTC 607	16.07.2015	Maintenance – Entitlement – Section 125(4) Cr.P.C.	17





## SUPREME COURT CITATIONS CIVIL CASES

2015 (8) SCC 219

Excel Dealcomm (P) Ltd

vs.

Asset Reconstruction Co. (India) Ltd

Date of Judgment : 01.04.2015

- A. **Contract and Specific Relief – Specific Relief Act, 1963 – Ss.22 and 10 – Suit for specific performance of sale of immovable property without express prayer for delivery of possession, but such prayer being implicit in prayer that was made – Maintainability – Held, court is barred to grant relief of possession in a suit for specific performance unless prayer for delivery of possession is specifically sought or is present by necessary implication from nature of relief prayed for, as in present case**
- B. **Contract and Specific Relief – Specific Relief Act, 1963 – Ss.22 and 10 – Suit for land – Determination of – Parameters, explained – Held, suit for land is a suit in which relief claimed relates to title or delivery of possession of land or immovable property – To determine if a suit is for land, court has to look into the plaint and no other evidence – If by averments in plaint and prayers therein, it appears that said suit is one for land, it shall be so held – Words and Phrases – “Suit for land”**
- C. **Courts, Tribunals and Judiciary – High Courts – Letters Patent of Calcutta High Court – Cl.12 – Territorial jurisdiction – Ordinary original civil jurisdiction of High Court of Calcutta – “Suit for land” – What is**
- D. **Contract and Specific Relief – Exclusion/Restriction of jurisdiction – Intention of the parties – Effectuation of – Clauses in agreement clearly showing that the intention of the parties to the agreement was to restrict limitation to the forums/courts of Mumbai only – Hence, held, as the courts of Mumbai were granted exclusive jurisdiction as per the agreement, there is no reason to create any exception to the intention of the parties – Contract Act, 1872, Ss.28 and 23**

2015 (8) SCC 318

Roxann Sharma

vs.

Arun Sharma

Date of Judgment : 17.02.2015

- A. **Family and Personal Laws – Hindu Minority and Guardianship Act, 1956 – Ss.6(a), proviso thereto and 13 – Custody of a Hindu child aged below 5 yrs – Entitlement of father vis-à-vis mother in respect of – Determination – Approach to be adopted – Governing principles – Burden of proof – Proviso to S. 6(a) of HMG Act prescribing that custody of a minor who has not completed the age of 5 yrs shall ordinarily be with the mother – Applicability of – Use of word “ordinarily” therein – Significance of**
- B. **Family and Personal Laws – Hindu Minority and Guardianship Act, 1956 – Ss.3 and 6 – Applicability of HMG Act, 1956 to child involved in present case – Mother of child, a Christian while**

father was a Hindu – Effect of – Since mother not raising any objection to applicability of HMG Act, presumed that said child was governed by Hindu Law

- C. Interpretation of Statutes – Internal Aids – Proviso – Nature and scope of – Reiterated, a proviso is in the nature of an exception to what has earlier been generally prescribed
- D. Interpretation of Statutes – Basic Rules – Generally – Curial interpretation virtually nullifying the spirit of the enactment – Must be avoided
- E. Courts, Tribunals and Judiciary – Judicial Process – Judicial discipline, accountability and comity – Judgments of coordinate Benches – Duty of court to respect prior order passed by a coordinate Bench
- F. Family and Personal Laws – Guardians and Wards Act, 1890 – S.26 – Violation of – Father, without notifying or taking permission of trial Judge concerned, leaving its jurisdiction along with his minor son T – Said act of father, held, was violative of S.26 of GW Act, 1890 – It prima facie undermined the authority of court – May tantamount to contempt of court – Contempt of Courts Act, 1971, S.2(b)
- G. Practice and Procedure – Forum shopping/Court shopping – Held, must be firmly dealt with
- H. Words and Phrases – “Guardianship” – Legal concept of – Meaning and scope – Definition of “guardian” provided in various statutes – Taken note of – Hindu Minority and Guardianship Act, 1956 – S.4(b) – Juvenile Justice (Care and Protection of Children) Act, 2000 – S.2(j) – Education and Universities – T.N.Elementary Education Act, 1920 (8 of 1920) – S.3(viii) – Guardians and Wards Act, 1890, S.4(2)
- I. Family and Personal Laws – Child custody – Matter pertaining to – Visitation order in respect of a child – Distinguished from custody or interim custody order as to that child – Words and Phrases – “Visitation right/order”
- J. Constitution of India – Art.21 – Life – Meaning and scope: Narrowly construed – Right to safety against crime/Police protection – Grant of police protection – Matrimonial dispute between appellant wife and respondent husband, regarding claim as to custody of their minor son – Social worker concerned who provided assistance to Supreme Court in present case, as a result of certain conversations with respondent, expressing apprehension as to risk to her and her family’s life at the hands of respondent – In this view, direction issued that in the event of social worker seeking police protection for herself and her family, the Station House Officer of police station concerned must immediately provide the same

2015 (5) CTC 547

ABC

vs.

The State (NCT of Delhi)

Date of Judgment : 06.07.2015

Hindu Minority and Guardianship Act, 1956 (32 of 1956), Section 11 – Notice to Father – When can be dispensed with – Application by unwed, educated mother for appointing her as Natural Guardian of minor son – Application dismissed on ground that name of Father not disclosed and Application fatal without issuing Notice to him – Established that Father of child not in picture and never portrayed any concern for his offspring – Such a man, who forsakes his duties and responsibilities, held, not a necessary party for well being of child – Welfare of child, utmost and guiding factor in all circumstances – Father’s right over child exists but when he shows no involvement at all, rights of said Father, held, cannot be prioritized over Mother of child – Moreover, Mother, had

issued a general Notice to public by way of Notification in National Daily – Disclosing of identity of Father, may subject child to social stigma and needless controversy – Welfare of child, held, not undermined by not issuing Notice to unconcerned Father – Section 11 being only procedural in nature, Father, if genuinely interested, can in future approach Guardian Court for verifying and altering its Orders – Consequently, held, issuance of Notice to putative Father not mandatory when Guardianship Petition has been filed by natural Mother, who is sole caregiver of minor child.

Hindu Minority and Guardianship Act, 1956 (32 of 1956), Section 11 – Term ‘Parent’ Meaning of – In case of illegitimate children, whose sole caregiver is one parent, said parent alone would come within the term ‘Parent’ used in provision.

Hindu Minority and Guardianship Act, 1956 (32 of 1956), Section 11 – Application of provision of – When called for – Provision, held, directly applicable in cases when custody of child is sought for by Third party – In said cases, views of Natural Parents, held, of utmost significance – Provision, however, not having direct application in cases, when a Petition is filed by one of the Natural Parents for appointment as guardian of child – However, sole guiding factor in all cases is welfare of child, regardless of rights of parents.

Law of Guardianship – Mother – Natural Guardian of Child – Hindu, Muslim as well as Christian law, all giving preference and pre-eminence to mother as Natural Guardian of child over Father of concerned child – Same practice followed universally in all other legislations in world.

Society and Welfare – Birth Certificate – Whether can be obtained by Single Mother – Obtaining of Birth Certificate for child of utmost significance – Single Parent/unwed Mother, held, authorized to apply for Birth Certificate of child and Authorities to process said Application based on an Affidavit without insisting on furnishing of name of Father – On other hand, State to ensure that no individual suffers any inconvenience/disadvantage on account of Parents failing to register his/her birth.

Justice Delivery System – Judiciary – Guardian Courts – Duty of – Petition by unwed Mother for being appointed as guardian of her minor son – Petition dismissed by Guardian Court as well as High Court on account of Notice not being issued to Father of child – Held, courts in said case called upon to exercise their parens patriae jurisdiction – Child, upon a Guardianship Petition being presented, is not in exclusive custody of Parents but is in curial curatorship until attaining majority – Courts in instant case, held, guilty of dereliction of duty in dismissing Petition without considering all complexities.

2015 (5) CTC 577

Nandkishore Lalbhai Mehta  
vs.  
New Era Fabrics Pvt. Ltd.

Date of Judgment : 08.07.2015

Contract Act, 1872 (9 of 1872), Section 31 – Contingent Contract – Agreement to sell land by Industrial Undertaking contained specific stipulation that Labour Union should give consent to such sale and permission from Urban Land Ceiling (ULC) be obtained – Labour Union refused to give consent – Buyer agreed to waive such stipulation – Such waiver impermissible in law – Contract could not be specifically performed – Order of Division Bench of High Court directing refund of Earnest Money Deposit (EMD) along with 18% to Appellant, justified and upheld – Appeal dismissed.

Code of Civil Procedure, 1908 (5 of 1908), Orders 6 & 7 – Evidence Act, 1872 (1 of 1872), Section 3 – Pleading – Appreciation of documents produced but not supported by pleading – Suit for Specific Performance – Buyer alleged that Letter issued by Labour Union refusing to give consent for such sale was in collusion with seller to back out from sale – Buyer later contended that Union had agreed to give consent on certain conditions – Such plea not raised in Plaint and Plaint not amended – Letters of Labour Union allegedly altering position could not be considered without amendment of pleading.

Evidence Act, 1872 (1 of 1872), Section 3 – Mere identifying signature would not amount to proving document.

(2015) 6 MLJ 756(SC)

K.Nanjappa

vs.

R.A. Hameed

Date of Judgment : 02.09.2015

Contract – Agreement – Specific Performance – Specific Relief Act (Act), Section 20 – Parties involved in dispute over suit properties – Plaintiff-respondent filed suit for specific performance – Trial Court held that Plaintiff-respondent failed to prove agreement and declined suit – On appeal High Court decreed suit for specific performance – Whether agreement allegedly executed by respondents, can be enforced and if High Court was right in passing decree of specific performance – Held, High Court is not correct in holding that there is no reason to disbelieve execution of document although it was executed on quarter sheet of paper and not on proper stamp and also written in small letter – High Court also misdirected itself in law in holding that there was no need of plaintiff to have sought for opinion of expert regarding execution of document – Various documents including order-sheets in earlier proceedings including execution case were filed to nullify claim of plaintiff regarding possession of suit property but these documents have not been considered by High Court – Evidence and finding recorded by criminal courts in criminal proceeding cannot be conclusive proof of existence of any fact, particularly, existence of agreement to grant decree for specific performance without independent finding recorded by Civil Court – It is not fit case where discretionary relief for specific performance is to be granted in favour of plaintiff-respondent – High Court in impugned judgment has failed to consider scope of Section 20 of Act – Appeal allowed.

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## **SUPREME COURT CITATIONS CRIMINAL CASES**

(2015) 8 Supreme Court Cases 239

**Rajdeep Sardesai**

**vs**

**State of Andhra Pradesh**

**Date of Judgment 14.05.2015**

- A. Criminal Procedure Code, 1973 – S. 199(4) – Sanction for making complaint against persons alleged to have committed offence relating to defamation under Ch.XXI IPC against public servant – Questions based on merits of the case not required to be considered at the stage of sanction
- Constitution of India – Arts. 19(1)(a) & (2) and 21 – Defamation - Freedom of the press and right to reputation – Balancing of - Penal Code, 1860 – Ss. 499 to 502 r/w S. 120-B – Press and Media Laws – Defamation – Making false allegations against police officer regarding conduct of investigation by him/facilitation of fake encounter, etc. – Human and Civil Rights – Police/armed forces inaction/atrocities/Custodial Violence or deaths/Illegal detention/Fake encounters – False allegations in media against officials concerned – Liability to be prosecuted for defamation under IPC
- B. Criminal Procedure Code, 1973 – Ss. 199(4) and (2) – Sanction for making complaint against persons alleged to have committed offence relating to defamation under Ch. XXI IPC against public servant – Held, single order of sanction against all accused persons involved in same transaction sufficient – State Government not required to issue separate sanction order against each person when all of them are involved in commission of the alleged offence and their names already mentioned in sanction order – Penal Code, 1860 S . 499 to 502 r/w S. 120-B – Press and Medial Laws – Defamation
- C. Criminal Procedure Code, 1973 – S. 199(4) – Sanction for making complaint against persons alleged to have committed offence relating to defamation under Ch. XXI IPC against public servant – Subjective satisfaction – Application of mind – Grant of sanction is administrative function of Government concerned based on its subjective satisfaction – On facts held, sanction order was passed after due application of mind by appreciating facts – Penal Code, 1860 Ss. 499 to 502 r/w S. 120-B – Press and Media Laws – Defamation
- D. Constitution of India – Art. 136 – Interference of Supreme Court with judgment of High Court rejecting petition under S. 482 CrPc for quashing criminal proceedings against appellants – Not called for when neither is there a substantial question of law framed in appeal nor any miscarriage of justice for appellants – Criminal Procedure Code, 1973 – S. 482 – Penal Code, 1860 – Ss. 499 to 502 r/w S. 120-B – Press and Media Laws - Defamation

(2015) 3 MLJ (CrI) 341(SC)

**State of U.P**

**vs.**

**Satveer**

**Date of Judgment : 01.07.2015**

Murder – Common Intention – India Penal Code, 1860, Sections 302 and 34 – Respondents/accused convicted under Section 302 read with Section 34 – Also, imposed with death penalty subject to confirmation by High Court, same challenged – High Court acquitted Respondents of charges under Section 302 read with Section 34 – Appeals – Whether High Court justified in acquitting Respondents of charges under Section 302 read with Section 34 – Held, case of prosecution was that victim last seen in company of Respondents – Last seen theory would clinch matter if testimony of PW2/sole witness accepted – Evidence of sole witness needs to be considered with caution and after testing it against other material and such evidence must inspire confidence and ought to be beyond suspicion – Apart from own testimony of PW2, nothing placed on record which could lend corroboration to his own presence and content of his version – Nothing on record to test veracity of version of sole witness – Movements of deceased also not established to show that he was there as suggested by witness – Assessment of entire material left doubts and questions unanswered – Presence of Respondents not fully established – As per prosecution, weapon was blood stained and kept in folds of dhoti by one of the accused, but no such blood stained dhoti of accused recovered - even blood stains found on cemented portion disintegrated as per FSL examination – In present matter where accused tried for offence punishable with capital punishment, scrutiny needs to be stricter – But, material on records falls short and Respondents entitled to benefit of doubt – View by High Court affirmed – Appeals dismissed.

**(2015) 3 MLJ (Crl) 358(SC)**

State of Madhya Pradesh

vs.

Anoop Singh

Date of Judgment : 03.07.2015

Rape – Kidnapping – Age Determination of prosecutrix – Indian Penal Code, 1860 (Code 1860), Sections 363, 366 and 376 – Juvenile Justice (Care and Protection of Children) Rules, 2007 (Rules 2007), Rule 12(3)(b) – Respondent/accused convicted under Sections 363, 366 and 376 of Code 1860 – On appeal, High Court set aside conviction order on ground that since prosecutrix was not below 16 years of age, but more than 18 years of age at time of incident and was consenting party, no offence against accused proved – Also, acquitted accused from charges leveled against him – Appeal – Whether acquittal order passed by High Court justified – Whether prosecutrix was below 16 years of age at time of incident – Held, date of birth of prosecutrix shown as 29.08.1987 in Birth Certificate/Ext. P/5, while it is shown as 27.08.1987 in Middle School Examination Certificate, same show difference of just two days in dates mentioned in such Exhibits - Discrepancy of two days in two documents adduced by prosecution immaterial and High Court wrong in presuming that documents could not be relied upon in determining age of prosecutrix – High Court also relied on statement of PW-11/doctor, who on basis of ossification test, concluded that age of prosecutrix was more than 15 years but less than 18 years and considering same, it presumed that girl was more than 18 years of age at time of incident – But, High Court should have relied firstly on documents as stipulated under Rule 12(3)(b) of Rules 2007 and only in its absence, medical opinion should have been sought – Keeping in view medical examination reports, statements of prosecution witnesses which inspire confidence and certificates proving age of prosecutrix to be below 16 years of age on date of incident, impugned judgment by High Court set aside – Trial Court order uphold – Respondent directed to be taken into custody forthwith to serve out sentence – Appeal allowed.

**(2015) 3 MLJ (Crl) 448(SC)**

Jogendra Yadav

vs.

State of Bihar

Date of Judgment : 15.07.2015

Discharge – Discharge Petition – Impleadment of Accused – Code of Criminal Procedure, 1973, Sections 227 and 319 – During trial, Additional Sessions Judge issued notice under Section 319 to Appellants/accused based on evidence – After giving opportunity, Additional Sessions Judge summoned Appellants as accused to be added to proceedings – Appellants alleged that Section 227 can be availed of by them, even if they are added as accused under Section 319 – State resisted that person who is accused under Section 319 ought not be given opportunity to

avail remedy of discharge under Section 227, since it would be contrary to scheme and intent of Code – Whether accused summoned under Section 319 ought to be given opportunity to avail remedy of discharge under Section 227 – Held, Section 227 unavailable to accused who added under Section 319 – Contrary view would render exercise undertaken by Court under Section 319 to be infructuous and futile, if same Court were to subsequently discharge same accused by exercise of power under Section 227 - Exercise of power under Section 319 must be placed on higher pedestal – Accused summoned under Section 319 entitled to invoke remedy under law against illegal or improper exercise of power under Section 319, but cannot have effect of order undone by seeking discharge under Section 227 – If allowed to, such action of discharge would not be in accordance with purpose of Code in enacting Section 319, which empowers Court to summon person for being tried along with other accused, whether it appears from evidence that he committed offence – No undue hardships to accused, since remedy before Superior Court is available – Appeal dismissed.

**(2015) 3 MLJ (Crl) 455(SC)**

**Parhlad**

**vs.**

**State of Haryana**

**Date of Judgment : 03.08.2015**

**Rape – Age of Prosecutrix – Consent of Prosecutrix - Indian Penal Code, 1860, Sections 376(2)(g) and 363 – Constitution of India, 1950, Articles 136, 21 and 14 – Appellants/accused convicted under Sections 376(2)(g) and 363, same affirmed on appeal – Appeal-Whether finding as regards age of prosecutrix based on proper appreciation of evidence on record or it is perverse that it deserves to be dislodged in exercise of jurisdiction under Article 136 of Constitution – Whether opinion of High Court relating to consent withstands scrutiny – Held, testimony of prosecutrix, her father, and school leaving certificate show that prosecutrix was below 16 years of age – Radiologist who conducted ossification test opined that age of prosecutrix might be 16-17 years – No perversity found as regards determination of age of prosecutrix – No special emphasis needed to state that once it is held that prosecutrix is below 16 years of age, consent is irrelevant and totally meaningless – Mental and physical condition of young girl under dominion of two grown up males who became slaves of their prurient attitude can be imagined – Consent, apart from legal impermissibility, cannot be conceived of - Conclusion arrived at by Lower Courts cannot be faulted – Also, no justification or warrant for reduction of sentence – Appeal dismissed.**

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## HIGH COURT CITATIONS CIVIL CASES

(2015) 5 MLJ 408

Andhra Bank  
Vs  
State Bank of India

Date of Judgment 18.06.2015

Banking and Finance – Recovery of Money – Negligence – Liability – 1<sup>st</sup> Respondent/Plaintiff/Bank received demand drafts forwarded by Appellant/2<sup>nd</sup> Defendant/Bank for collection – 1<sup>st</sup> Respondent paid amount covered by demand drafts in view of endorsements by Appellants – After payment, it was found that draft forms stolen from 1<sup>st</sup> Respondent's office – 1<sup>st</sup> Respondent filed suit against 2<sup>nd</sup> Respondent/1<sup>st</sup> Defendant/customer and Appellant for recovery of money with interest – Trial Court held that Appellant and 2<sup>nd</sup> Respondent jointly and severally liable and directed them to pay amount with interest, same challenged – Whether there was negligence by Appellant in sending demand drafts for collection on behalf of its customer – Whether Appellant jointly and severally liable to repay amount with 2<sup>nd</sup> Respondent – Whether Trial court erred in holding that Appellant liable to pay amount claimed – Whether decree passed by Trial Court liable to be set aside – Held, evidence shows that 1<sup>st</sup> Respondent did not prove its case of fraud or malpractice by 2<sup>nd</sup> Respondent – Without setting right things in its internal administration to check fraud by their own officers, 1<sup>st</sup> Respondent chose to make claim not only against 2<sup>nd</sup> Respondent, but against Appellant – Relationship between Appellant and 2<sup>nd</sup> Respondent continued for years and under such circumstances, Appellant chose to receive demand drafts and send them to service branch of 1<sup>st</sup> Respondent for collection – Also, Appellant did not have facility to check genuineness of demand drafts – But, 1<sup>st</sup> Respondent had technical data to find out whether demand drafts were genuine – Appellant cannot be accused of negligence to take reasonable care and claim against them not sustained – 1<sup>st</sup> Respondent also failed to sustain its claim against 2<sup>nd</sup> respondent – Trial Court failed to appreciate evidence in proper perspective – Findings of Trial Court defective and liable to be interfered with and set aside – Appeal allowed.

2015 (5) CTC 484

Meenakshi Sundaram  
vs.  
Seemaichamy

Date of Judgment : 07.07.2015

Code of Civil Procedure, 1908 (5 of 1908), Order 21 – Executing Court - Execution Petition – Materials to be considered by Executing Court – Decree in Suit for Mandatory injunction – Execution Petition dismissed on ground that exact measurements regarding encroachment not shown in Decree – However, judgment of Trial Court containing certain details regarding Decree and Report of Advocate Commissioner also containing said details – Held, within province of Executing Court to consider materials produced by Petitioner in order to give true effect to Decree - Decision of Apex Court in Bhavan Vaja v. Solanki hanuji, AIR 1972 SC 1371 relied upon – Matter reverted to Executing Court to consider afresh – Civil Revision Petition allowed.



2015 (5) CTC 500

G.M. Jagannathan

vs.

H. Indira

Date of Judgment : 03.08.2015

Evidence Act, 1872 (1 of 1872), Section 58 – admitted facts need not be prove – No oral evidence is required to prove admitted facts – Execution of Agreement of Sale is admitted and receipt of Advance is also admitted.

Code of Civil Procedure, 1908 (5 of 1908), Section 34 – Agreement of Sale entered into between parties and Advance paid – Suit for refund of Advance filed – Agreement not containing interest rate for refund of Advance – Grant of 18% interest exorbitant in facts and circumstances of case – Interest rate modified to 6%.

2015 (4) CTC 519

N. Gangabai

vs.

D. Jeyachandran

Date of Judgment : 10.07.2015

Tamil Nadu Buildings (Lease & Rent Control) Act, 1960 (T.N. Act 18 of 1960), Section 10(3)(a)(iii) – Eviction on ground of Own Use and Occupation – Landlady seeking eviction of Tenant for providing Office space to her son, practicing as Advocate – Eviction Order passed by Rent Controller – Appellate Authority reversing Order passed by Rent Controller on ground that Advocate profession does not come within definition of ‘business’ – Revision by Landlady – In S. Mohan Lal, Supreme Court held that expression of ‘business’ occurring in Section 10(3)(a)(iii) is used in wide sense, so as to include practice of profession of Advocate – Ratio laid down by Supreme Court squarely applies to facts of present case – Landlady entitled to Order of Eviction – Order passed by Appellate Authority liable to be set aside.

Tamil Nadu Buildings (Lease & Rent Control) Act, 1960 (T.N. Act 18 of 1960), Sections 10(3)(a)(iii), 10(3)(c) & 10(3)(e) – Non-Residential premises – Eviction of Tenant on ground of Own Use and Occupation – Relative hardship – Proviso to Section 10(3)(e) speaks about hardship that may be caused to Tenant – Question of relative hardship can be considered only if eviction is sought on ground of additional accommodation – Since Landlady sought for eviction on ground of own use and occupation, Tenant cannot raise Plea of Relative Hardship – Civil Revision Petition allowed.

2015 (6) MLJ 557

A.Venkateswaran

vs.

Arulmighu Poolananteeswarar Temple

Date of Judgment : 26.06.2015

- A. Tenancy Laws – Eviction – Illegal Possession – Hindu Religious and Charitable Endowments Act, 1959, Sections 78, 78(2) and 79 – Suit property of 1<sup>st</sup> Respondent leased out to Appellant/Plaintiff in auction – On expiry of second term of lease, Appellant failed to surrender possession and also was in arrears of rent – Appellant approached Trial Court for bare injunction not to evict him without adopting due process of law – Trial court non-suited Plaintiff for reliefs sought for – On appeal, Lower Appellate Court concurred with findings of Trial Court – Second appeal – Whether lessee continuing to be in possession of property let out to him could be considered to be in illegal occupation and liable to be thrown away from property otherwise than in accordance with law – Held,

though possession of lessee after expiry of lease period deemed to be trespasser, such possession being established possession not to be disturbed without following due process of law – Since suit property is Temple property, alternative courses open to 1<sup>st</sup> Respondent to follow procedures for removal of encroachment under Section 78(2) and by approaching Civil Court for ejectment – As stand taken by 1<sup>st</sup> Respondent reveals that it does not intend to adopt either of courses, Appellant granted perpetual injunction not to interfere with his possession without adopting due process of law – Decree of Trial Court and decree of Lower Appellate Court confirming decree of Trial Court set aside – Appeal allowed.

- B. Tenancy Laws – Termination of Tenancy – Issuance of Notice – Expiry of Lease – Hindu Religious and Charitable Endowments Act, 1959, Section 78 – Whether lease deemed to be renewed or extended or whether person deemed to be tenancy holding over, when landlord did not issue notice of termination of tenancy after expiry of lease period – Whether possession of lessee after expiry of lease period could not be considered to be as legal possession – Held, lease period expired – Even thereafter, Appellant continued to be in possession and enjoyment of suit property – Appellant's possession after expiry of lease period cannot be termed as possession by lessee holding over or legal possession than possession of trespasser in view of explanation found in Section 78 – Section 78 provides that person, who continues to remain in property after expiry of lease, shall be deemed to be trespasser.

2015 (6) MLJ 586

Sivarama Thevar

vs.

Narasus Spinning Mills Office

Date of Judgment : 30.06.2015

- A. Civil Procedure – Suit for Injunction – Maintainability of – Ambiguous plea – Respondent/Plaintiff filed suit for bare injunction in respect of suit property alleging that Plaintiff derived title by way of purchase and also perfected title by adverse possession, same dismissed – On appeal, Lower Appellate Court reversed and set aside decreed passed by Trial Court and decreed suit as prayed for – Second appeal by Defendants – Whether Lower Appellate Court erred in not advertent to maintainability of suit as nature of composition of Plaintiff not stated in clear terms in plaint – Held, perusal of pleadings made in plaint, Ex.A10 and evidence of PW-1 will show that suit filed in name of business concern without describing nature of its composition – Plea of Appellant that suit as framed is not maintainable cannot be brushed aside as having no substance in it – Objection to maintainability of suit goes to root of case – Lower Appellate Judge failed to consider question regarding maintainability of case, when plaint pleading is nebulous as to nature of composition of business concern shown as Plaintiff – Ambiguous plea relating to constitution of Plaintiff will make suit itself not maintainable – Decree of Lower Appellate Court set aside – Decree of trial Court restored – Appeal allowed.
- B. Civil Procedure – Suit for Injunction – Maintainability of – Exclusive Pleas – Whether Lower Appellate Court erred in not advertent to fact that Plaintiff took mutually destructive pleas based on derivative title and adverse possession – Held, very fact that person claims to have perfected title by adverse possession would give inference that party making such plea is not confident of succeeding on plea of derivative title – Alternative pleas can be taken by Plaintiff, but before trial starts, Plaintiff must elect to proceed on any one of them and give up the other – Both pleas are mutually contradictory and exclusive, because claim of derivative title negatives presence of necessary animus to possess property adverse to that of real owner – Plea of adverse possession will amount to giving up plea of derivative title – Since Respondent did not choose to elect one out of two pleas, Respondent bound to fail on that score also – Lower Appellate Judge failed to consider said aspect and same resulted in impugned decree of Lower Appellate Court reversing decree of Trial court – Lower Appellate Court erred in not advertent to fact that Respondent took two mutual-

ly exclusive pleas and failed to elect one of them before trial and such failure would make Plaintiff dis-entitled to relief sought for.

2015 (5) CTC 629

Dr. L.Ramachandran

vs.

K.Ramesh

Date of Judgment : 07.09.2015

Code of Civil Procedure, 1908 (5 of 1908), Order 7, Rule 11(d) & Order 15, Rule 1 – Dismissal of Suit at First Hearing – Suit for Partition and Declaration to declare Sale Deed as null and void – Defendant filed Application for dismissal of Suit at first hearing on ground that Suit is barred by limitation and there was no cause of action – Trial Court held that issue of limitation could be decided only on evidence even though pleading established same – Court should examine admitted facts to decide on plea of limitation in Application under Order 15, Rule 1 and then consider whether parties should face trial to decide question of limitation – No need to conduct trial for appreciation of evidence to adjudicate issue of limitation when Plaintiff averment establishes same – Plaintiff liable to be rejected under Order 7, Rule 11(d) of Code – Order of Single Judge dismissing Application is liable to set aside.  
Code of Civil Procedure, 1908 (5 of 1908), Order 7, Rule 11 – Rejection of Plaintiff – Contingencies, discussed.

Madras High Court Original Side Rules, Order 37, Rule 2 – Letters Patent, clause 12 – Code of Civil Procedure, 1908 (5 of 1908), Order 15, Rule 1 & Order 14, Rule 8 – Appeal against Order refusing to reject Plaintiff – Maintainability of – Order refusing to reject Plaintiff, held, is in category of Preliminary Judgment – Appeal against said Order, maintainable – Decision of Apex Court in Liverpool & London S.P. & I. Association Ltd. v. M.V.Sea Success I, 2004 (9) SCC 512, relied upon.

(2015) 5 MLJ 649

Pappammal

Vs

Muthuraman

Date of Judgment 26.06.2015

Property Laws – Partition Deed – Possession of Title – Plaintiff/respondent had filed suit for possession and injunction against appellant/first defendant – Suit properties were claimed to be not part of property for which partition deed was executed – On trial, lower courts decreed suit in favour of plaintiff – Whether lower court correctly appreciated material evidence, which is older Partition Deed, in which entire extent in suit property was allotted to appellant/first defendant's husband – Held, appellant's husband side people chose to create new Partition Deed and Settlement Deed with intention to defeat rights of appellant and her son – Both courts below, without properly appreciating said aspects, allowed them to be carried away by fact that there was registered mortgage deed to arrive at perverse finding to effect that partition alleged and purchase made in court sale did not include suit property – Both courts below also have been carried away by fact that sale certificate as evidence by possession receipt shows that sale was only in respect of an undivided half share, to arrive at conclusion that there could not have been any partition among sons – Courts below failed to attach due evidentiary value to partition deed, contents of which have been corroborated by evidence – Appeal allowed.

(2015) 6 MLJ 665

R. Aravindhan

Vs

Date of Judgment 29.07.2015

Contract – Specific Performance – Time Essence – Specific Relief Act, 1963 (Act 1963), Sections 16(c), 20, 20(2) and 20(4) – Defendant offered to sell suit properties to plaintiff - Due to delay on part of defendant, plaintiff was constrained to file suit for specific performance – Trial Court held that plaintiffs were entitled to relief of specific performance – Whether time could be taken to be essence of agreement of sale – Whether plaintiffs had proved their readiness and willingness in terms of Section 16(c) of Act, 1963 and entitled to equitable relief of specific performance in terms of parameters laid down in Section 20 of Act 1963 – Held, appellant/defendant who had chosen to terminate agreement for reasons other than failure of plaintiffs to perform their obligations within period of time stipulated in agreement, cannot raise plea that time was essence of agreement – Such a plea, apart from being one developed at later point of time, cannot be used by person who terminated contract even before expiry of period stipulated in agreement and that too for reasons not attributable to any fault on part of respondents/plaintiffs – Plaintiffs were able to prove that they had their own funds – Plaintiffs also proved that they also had arrangements for taking loan – If one thing is averred and two things are proved, same could not be taken to be contradiction in terms – Plaintiffs were always ready and willing to perform their part of obligation and that they had discharged obligation cast upon them under Section 16(c) of Act, 1963 – Neither terms of contract, nor conduct of parties at time of entering into contract, gave any unfair advantage to plaintiffs over defendant – No pleading nor proof to show existence of other circumstances under which contract was entered into, which eventually put plaintiffs to an unfair advantage over defendant – Defendant was not able to say that contract was entered into under certain circumstances which, though not rendering contract voidable, made it inequitable to enforce specific performance – Only two reasons were stated for defendant to seek cancellation of contract – Both of them did not make it inequitable to enforce specific performance of contract – Hence, Sub-section (2) and (4) of Section 20 would not be attracted – Appeal dismissed.

(2015) 5 MLJ 707

K. Natarajan  
Vs  
Thangaiyah

Date of Judgment 06.07.2015

Civil Procedure – Interlocutory Application – Maintainability of – Question by Party to his Own Witness – Indian Evidence Act, 1872 (Act 1872), Section 154 – Constitution of India, 1950, article 227 – Respondent/Plaintiff filed suit for declaration and permanent injunction – Before Trial Court, Respondent examined PW-3, who was cross-examined by Petitioner/1<sup>st</sup> Defendant – After-cross-examination, evidence of PW-3 closed – Thereafter, Respondent filed application to declare PW-3 as hostile and grant him permission to cross-examine PW-3, same allowed in spite of objection by Petitioner, same challenged – Whether interlocutory application to declare witness hostile and permit his cross-examination, after concluding evidence, at instance of party, at whose instance witness called, maintainable – Held, ordinarily request to invoke Section 154 of Act 1872 must come, when witness is in box, but there cannot be general rule that if request not made, when witness was in box, party calling witness would be denied of opportunity later to cross-examine witness – Since Section 154 of Act 1872 is only provision under which party calling his own witness entitled to seek permission of Court to cross-examine him, such provision should be given meaningful interpretation – Court should be given discretion to entertain application, even after closing evidence, in case proper and sufficient reasons given for failure to invoke Section 154 of Act 1872 earlier – Trial Judge found that counsel was not present during time of cross-examination and as such, party failed to avail opportunity to treat witness hostile and cross-examine him – Discretion exercised to render justice after considering evidence by witness and attending circumstances – Trial Judge allowed application by Respondent taking spirit of Section 154 of Act 1872 into account – No illegality found in impugned order warranting interference by exercising revisional jurisdiction under Article 227 of Constitution – Petition dismissed.

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**HIGH COURT CITATIONS  
CRIMINAL CASES**

2015-2- LW. (Cr.) 277

V. Venkataraman

vs.

The State, represented by Assistant Commissioner of Police

Date of Judgment : 31.07.2015

I.P.C., Sections 498A, 306.

Suicide by wife – Abetment by accused husband, whether proved, dowry harassment, proof of.

Held: there must be proximity between alleged event and commission of suicide – There is no proximity – saying ‘go and die’, effect of, evidence by child, after 5 years, effect of.

Contents of suicide note to be analysed to find whether it contains any incriminating information in the nature of instigation, provocation, forcing the victim to commit suicide - Handwritings would not show any abetment on the part of the accused – It would not show any intention or wish on part of accused that his wife should die – It would not show any positive act on part of accused forcing her to commit suicide – Conviction set aside.

2015-2- LW. (Cr.) 364

P. Ravindranath

vs.

K. Chandragandhi and others

Date of Judgment : 27.07.2015

I.P.C., Sections 120(B), 467, 477,

Criminal procedure Code, Section 173(8), for further, investigation, application by defacto complainant.

Challenge to order of further investigation on petition filed by defacto complainant.

Held: A defacto complainant cannot file an application under Section 173(8) Cr.P.C. – police can suomotu conduct further investigation under Section 173(8) cr.p.c getting formal leave of the magistrate – Magistrate should have issued notice to defacto complainant before accepting final report – Petitioner accused has no locus standi to challenge order of further investigation by magistrate, because no accused has right to pre-decisional hearing before commencement of investigation.

2015-2- LW. (Cr.) 384

State represented by The Inspector of Police, H-8, Thiruvottriyur

vs.

K.P. Sankar and another

Date of Judgment : 12.08.2015

Criminal Procedure Code, Section 216, alteration of charge section 397, revision maintainability,

I.P.C., Section 302,

Application to alter charge filed by prosecution was dismissed – Revision against, whether maintainable.

Held: neither prosecution nor defacto complainant or any one interested in the criminal case is entitled to file an application – Such an order did not finally determine prosecution case – It is interlocutory in nature – criminal revision not maintainable.

2015-2- LW. (Crl.) 392

B. Prakash

vs.

Deepa and others

Date of Judgment : 28.07.2015

Protection of Women from Domestic Violence Act., (2005), Sections 20, 36, 12, Section 2(k) 'monetary relief'; 2(a) 'aggrieved', Section 3 'Domestic violence' explanation 1(iv) 'economic abuse'.

Criminal Procedure Code, Section 125, 127.

Entitlement of maintenance, 'monetary relief', 'economic abuse', domestic violence' – what is, effect of claiming maintenance.

Held: maintenance amount payable by husband is a financial resource for woman, denial of household necessities of wife is also an 'economic abuse' – Economic abuse will amount to domestic violence – Wife, victim of such domestic violence, is, entitled for monetary relief under Section 20.

Order for maintenance under Section 125 is not a bar to pass another order granting monetary relief under Section 20. Para 17 If the wife wants to modify an order made under Section 125 only option available for her is to file a petition under Section 127.

Monetary relief under Section 20 may be not in modification of the previous order for maintenance passed under Section 125 but it may be in addition to the said order for maintenance passed u/s 125.

For claiming order under Section 20, what is to be done, proof of acts, necessary, what are – Section 20 not in derogation of Section 125 of the Code.

Wife, has option to seek remedy under Section 125 or under Section 20 – She cannot, simultaneously, make a claim under Section 20 and vice versa – Respondents had approached two different forums, under Section 125 Cr.p.C. under Section 20 of the D.V. Act, on same set of allegations and cause of action, not legally permissible.

2015 (5) CTC 511

The Superintendent of Police

vs.

The Judicial Magistrate Court, Cheyyar

Date of Judgment : 07.09.2015

Indian penal Code, 1860 (45 of 1860), Section 174 – Summons issued calling upon Police to produce document referred to in Summons – Personal presence of person, to whom Summons is issued, is optional and production of document through any one is sufficient.

Indian Penal Code, 1860 (45 of 1860), Section 176 – Code of Criminal Procedure, 1973 (2 of 1974), Section 356(1) – Section 176 consists of three parts – First part casts duty upon informant to give information to Public Servant in manner required by law – Failure to execute Non-Bailable Warrant and failure to respond to Notices

issued by Magistrate does not expose Superintendent of Police, to whom Notice was issued for offence under Section 176.

Code of Criminal Procedure, 1973 (2 of 1974), Sections 345 & 350 – Failure to respond to Notice issued by Magistrate to submit action taken on execution of Non-Bailable Warrant would not fall under Section 345 – Only when specified offences under IPC are committed in view or presence of Court, Section 345 would stand attracted.

Code of Criminal Procedure, 1973 (2 of 1974), Section 349 – Magistrate should inform person, who is called upon to produce document, that failure to produce document would expose him to action under Section 349.

Code of Criminal procedure, 1973 (2 of 1974), Section 349 – Section has two limbs viz. (a) Witness refuses to answer questions put to him; and (b) person, who is called upon to produce a document that is in his possession or power but does not produce same – Before taking action under Section 349 person against whom it is initiated should be put on Notice - When person fails to respond to Notice issued by Judicial Officer such Judicial Officer can resort to two actions – Magistrate can proceed under Section 349 or can prosecute under Section 44 r/w 21 of the Tamil Nadu District Police Act 1859 – Offence under Section 349 leads to Simple Imprisonment of 7 days – Difference in punctuation between 1882 Act and 1973 Act noticed – Proceedings under Section 349 is summary in nature – Punishment can be recalled if offender produces document but if offender persists he can be proceeded under Section 345 or 346, Cr.P.C.

Code of Criminal Procedure, 1973 (2 of 1974), Sections 195(a)(i) & 352 – Indian Penal Code, 1860 (45 of 1860), Section 175 – Section 175, IPC would stand attracted when person, who is legally bound to produce document summoned by Court, fails to do so – Section 352, Cr.P.C. does not enable Magistrate, whose Order has not been obeyed by such person to initiate proceedings under Section 175 – Such Magistrate can present Complaint as Public servant for offence under Section 175, IPC before Chief Judicial Magistrate for taking cognizance and proceedings with trial.

Indian Penal Code, 1860 (45 of 1860), Section 175 – Code of Criminal Procedure, 1973 (2 of 1974), Section 197 – Tamil Nadu District Police Act, 1859 (T.N. Act 24 of 1859), Sections 21, 44 & 53 – Superintendent of Police can be removed only by Government – Police derives its powers to bring offenders to justice by Section 21 of Tamil Nadu District Police Act and it casts duty on Police to execute Warrant – Station House Officer to whom Warrant is directed to be executed should make entries in Warrant Register – Police Officer, who fails to execute Warrant, can be convicted under Section 44 of Tamil Nadu District Police Act, 1859 – For such prosecution sanction is not necessary.

Tamil Nadu District Police Act, 1859 (T.N. Act 24 of 1859), Sections 44 & 21 – Chennai City Police Act, 1888(T.N. Act 3 of 1888) – Provisions of Sections 44 & 21 apply throughout Tamil Nadu even in cities where City Police Act is enforced.

(2015) 3 MLJ (Cri) 536

Principal District Judge, Salem

vs.

State by the Inspector of Police

Date of Judgment : 01.07.2015

Transfer of Case – Territorial Jurisdiction – Code of Criminal Procedure, 1973 (Code 1973), Sections 174 and 178 – Reference has been made for transferring case on point of territorial jurisdiction – Body of woman was recovered from canal in recovery district while murder was alleged to have taken place in separate occurrence district – Case was registered in recovery district – Whether Court in occurrence district will have jurisdiction to try case – Held, section 178 of Code 1973 makes it clear that where offence consists of several acts done in different local areas, it may be inquired into or tried by Court having jurisdiction over any of such local areas – Thus occurrence district, has got jurisdiction, because, some of acts of offence started at same district and case was first registered for “woman missing” – After commencement of some of acts of offence at occurrence district, deceased was taken by accused to different places before disposing dead body in recovery district – Case pending

before Principal District and Sessions Judge in occurrence district will be competent Court to try case – Revision disposed of.

(2015) 3 MLJ (CrI) 556

Nijamudeen

vs.

Inspector of Police, Avinasipalayam

Date of Judgment : 09.07.2015

Return of property – Custody of Cattle – Validity of - Cruelty to Animals – Prevention of Cruelty to Animals Act, 1960 (Act 1960), Sections 11(1)(a)(d)(g)(h), 29, 35 and 38(2)(h) – Indian penal Code, 1860 (Code 1860), Sections 147, 428 and 429 – Motor Vehicles Act (Act), Sections 237 and 177 – Based on complaint by defacto complainant, cases registered against accused under Sections 11(1)(a)(d)(g)(h), 29, 35 and 38(2)(h) of Act 1960 Sections 147, 428, 429 of Code 1860 and Section 237 read with Section 177 of Act – After registration of cases, owners of cattle filed petitions seeking return of cattle, same allowed – Revision cases by defacto complainant – Whether return of cattle to owners justified – Held, if cattle left again with owners, same likely to be exposed to further cruelty – Accused transported cattle to butchery without following Rules and Regulations - Object of Act 1960 is only to prevent animals from being put to cruelty – Vehicles used for commission of such kind of offence should be dealt with under Act - Lower Court did not consider decision in Naseerulah v. State by Sub-Inspector of Police, Coonoor and Another in proper perspective and granted custody of cattle – Defacto complainant voluntarily stated that he is prepared to maintain cattle and prepared to incur charges required for its maintenance – When voluntary organization comes forward to save life of cattle, plea of owners that they are entitled for custody of cattle not accepted – Common order of Lower Court set aside – Revision cases allowed.

2015 (4) CTC 561

V. Koilpillai

vs.

State of Tamil Nadu

Date of Judgment : 15.07.2015

Code of Criminal Procedure, 1973 (2 of 1974), Section 482 – Inherent powers of High Court – Exercise of inherent power to secure ends of justice – Prosecution filed Charge-sheet against Petitioners alleging that they have murdered one ‘M’ – Trial Court after full-fledged trial acquitted Petitioners holding that prosecution failed to prove charges with acceptable evidence – ‘M’ after long lapse to time appeared before District Collector and claimed she is alive – Accused persons filed Petition seeking Compensation for illegal prosecution and violation of Human Rights – High Court directed Police to secure DNA Report of “M” in order to examine issue in detail – DNA Report filed by Police reveals that claim made by ‘M’ is valid – Whether High Court by exercising its inherent powers can set aside Judicial declaration of Sessions Court, declaring that ‘M’ was murdered – held, inherent power of High Court is not circumscribed by any provisions of Criminal Procedure Code – No provision in Code can curtail exercise of inherent powers of High Court – Expression “Otherwise to secure ends of Justice” occurred in Section makes it clear when there is compel in necessity, Court can exercise its jurisdiction to undo injustice cost to any one or to prevent miscarriage of justice – findings of Sessions Court with regard to death of ‘M’ can be set aside even in absence of Appeal or Revision challenging Judgment of Trial Court – Final Report submitted by Police and Judgment of Trial Court set aside – Prosecution directed to proceed with fresh investigation and file final Report before Competent Court.

Evidence Act, 1872 (1 of 1872), Section 45 – Expert Evidence – Opinion of Expert – Relevancy – Cranio Facial Superimposition Test – Nature and scope – When identity of deceased in any case could not be ascertained by Witnesses in such circumstances Superimposition Report can be relied upon – Opinion of scientist based upon Superimposition Test can be accepted by Courts in order to identify dead body – In present case, Report of Forensic Expert found to be incorrect – Taking clue from this case, Criminal Courts cannot doubt superimposition Test Report – Skill of scientist or correctness of process conducted by scientist may be doubted, but not science itself.



Indian Penal Code, 1860(45 of 1860), Sections 76 & 52 – Act done by person bound or by mistake of fact believing himself bound by law – Petitioner sought for direction to register Criminal Case against Police Officers for illegal prosecution and confinement – Police based upon Superimposition Test foisted Murder case against Petitioners – Whether Police Officers have acted in good faith or by mistake of fact – Police Officials cannot doubt correctness of Expert Opinion – Police believed Report of Superimposition Test and proceeded with prosecution – Investigating Officers have acted in good faith and by reason of mistake of fact.

Constitution of India, Article 21 – Illegal Prosecution – Compensation – Sovereign immunity – Petitioners were falsely implicated in case of Murder, detained in prison, forced to undergo ordeal of trial – State has committed serious Human rights violation of Petitioner – State pleaded sovereign immunity – Applicability – Plea of sovereign immunity is available for State only against claim by way of Private Law remedy – Right of aggrieved to claim Compensation by way of Public Law remedy cannot be curtailed by raising a plea of sovereign immunity – State directed to pay Compensation of Rs.4,00,000 for each Accused.

Constitution of Indian, Article 21 – Illegal Prosecution – Compensation – Victim, who has not approached Court for Compensation - Entitlement – Gross violation of Human Rights and Fundamental Rights – Courts can order Compensation in favour of victim, who has not approached Court – Constitution Court enforcing Fundamental Rights cannot deny relief on technical ground.

(2015) 3 MLJ (Cri) 564

State rep by Inspector of Police, CBI, ACB

vs.

P. Pandian

Date of Judgment : 13.07.2015

Charge – Discharge Petition – Alteration of Charge – Code of Criminal Procedure, 1973 (Code 1973), Section 216 – A1 and A2 were accused amassed wealth disproportionate known source of income – Discharge petition filed by A2 has been allowed by Trial Court and upheld by High Court – A1 filed petition in Trial Court under Section 216 Code 1973 to alter charges by excluding items pertaining to A1's wife/A2 as they belongs to her, from charge already framed – Trial Court allowed petition – Petitioner challenges order of Trial Court through present petition – Whether Trial Court was right in altering charge by excluding items – Held, while upholding order of discharge passed by Trial Court, Court held that even it is to be said that A2 failed to produce any documentary evidence that she earned income out of beautician and other sources and she was not having any legal source of income, it cannot be said that she had lent her name on behalf of her husband for acquiring only property which stood in her name – Therefore, order passed by Trial Court discharging A2 had to be confirmed – Observations in High Court's order dated clearly answers contentions of prosecution in present petition – Thus, there is no infirmity in impugned order of Trial Court and it does not call for any interference – Petition dismissed.

2015 (5) CTC 607

M. Chinna Karuppasamy

vs.

Kanimozhi

Date of Judgment : 16.07.2015

Code of Criminal procedure, 1973 (2 of 1974), Section 125(4) – Maintenance – Entitlement – Husband filed HMOP for grant of divorce on ground of adultery – Civil Court passed ex parte judgment granting divorce on ground of adultery – Wife filed Application before Judicial Magistrate Court for maintenance – Court below granted maintenance to Wife – Disqualification to claim maintenance – Contention of Wife that terms “adultery” employed in Code is referable only to Wife, whose marriage with her Husband still subsists - Whether Wife divorced on ground of adultery is entitled to claim maintenance – Held, Divorced wife lives in adultery disqualified from claiming maintenance – Man carries obligation to maintain his divorced Wife, and woman also carries obligation not to live

in relationship with another man – When Wife commits any breach of obligation and living in adultery would result in disqualification to claim maintenance.

Evidence Act, 1872 (1 of 1872), Section 41 – Relevancy of Judgments rendered by competent Courts in Matrimonial dispute – Binding nature of Civil Court Judgment granting ex parte Decree of Divorce on ground of adultery – Findings rendered by Civil Court in Matrimonial dispute is relevant for deciding claim of Maintenance by Criminal Court – Ex parte Decree is also Decree passed on proof of claim made by sufficient evidence – Decree for Divorce granted by Civil Court in favour of Husband is sufficient proof that wife was living in adultery.

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