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IMPORTANT CASE LAW



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S. No.	CAUSE TITLE	CITATION	DATE OF JUDGMENT	SHORT NOTES	Pg. No.
				<p>end, and resultantly, the impediment to encumber or transfer the land also comes to an end – transfer of property Act, 1882, Ss.7,8 and 10.</p> <p>B. Land Acquisition and Requisition – Right to fair compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 - Under the 2013 Act, all persons claiming interest in compensation to be paid on account of the acquisition of land, are “persons interested” – further, amongst others, a person whose name is recorded as owner of the land or building or part thereof in the records of the authority concerned, is a “landowner” – even a family residing in the lands sought to be acquired, be it an owner or not is an “affected family” and if a family or a person is affected, necessarily, he has a right to approach the court to protect his interests – Therefore, subsequent purchasers / successors, etc., being people affected by the acquisition, have the locus standi to file the petition seeking declaration of lapse of acquisition proceedings.</p> <p>C. Land Acquisition and Requisition – Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 – Section 24 - Land acquisition proceeding – When lapses – Disjunctive and independent nature of the two grounds provided under S.24(2) when the proceedings would lapse –</p>	

S. No.	CAUSE TITLE	CITATION	DATE OF JUDGMENT	SHORT NOTES	Pg. No.
				<p>Reiterated, the land acquisition proceedings contemplated under S.24(2) of the 2013 Act would take in either failure by State, in respect of payment of compensation or taking of possession within the five year period prior to 01.01.2014 and if either failure is established the entire land acquisition proceedings would lapse under the deeming provision.</p> <p>D. Land and Acquisition and Requisition – Land Acquisition act, 1894 – Ss.9 and 3 – Subsequent purchasers – Rights of – right to claim compensation – subsequent purchaser, reiterated, has the right to claim compensation, being a person interested in the compensation, despite having no locus standi to challenge the acquisition proceedings.</p>	

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MADRAS HIGH COURT - CIVIL CASES

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MADRAS HIGH COURT – CRIMINAL CASES

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SUPREME COURT – CIVIL CASES

2018 (1) TLNJ 289 (Civil)

H.V. Nirmala and another vs. R. Sharmila and another

Date of Judgment: 25.01.2018

Evidence Act, 1872, Section 68 – Will – Suit for partition later settled compromise decree – Plaintiff/daughter of 1st wife of deceased father filed suit alleging that compromise decree is not binding her and she is the lawful owner of the properties based on the Will – dismissed and allowed by High Court on first appeal by plaintiff – Further appeal by defendants – Will dated 12.03.1980 is a registered Will executed by none other than the father in favour of his minor daughter/plaintiff and minor Son/D.1 born from first wife – is out of love and affection – no question of minor daughter and son playing an active role in execution of the Will in their favour since both were too young to indulge in any kind of illegal acts to grab the suit property – since the original Will was not in plaintiff's possession, its existence and legality could be proved by the plaintiff by leading the secondary evidence – plaintiff proved the Will dated 12.03.1980 in accordance with the requirement of Section 68 of the Evidence Act, 1872 by adducing her own evidence – since the plaintiff was not a party to the compromise decree dated 25.01.1997 passed in OS No.7266 of 1996, it was not binding on her High Court was right in holding that the plaintiff was able to prove the Will – appeal dismissed.

2018 (1) TLNJ 232 (Civil)

Jayaprakash and another vs. T.S. David and others

Date of Judgment: 25.01.2018

Civil Procedure Code, 1908 Order 9 rule 13 – Suit for specific performance against D.1 & D.2 who were sold the properties to D.3 & D.4 and not to appellants as per agreement – Ex parte ordered jointly and severally – Application to set aside the same by D.3 & D.4 allowed and decreed the suit against jointly and severally against respondents even D.1 & D.2 remain ex-parte – on appeal by D.3 & 4, High Court remand back the case to trial Court for fresh trial – D.1 & 2 entitled to notice under order 9 Rule 13 CPC in terms of local amendment – but no notice service to D.1 & 2 before passed ex-parte order – irregularity by trial court – remand order of the High Court to try the suit afresh is correct – Appeal dismissed.

2017 (2) TLNJ 545 (Civil) :: 2017 AIR 2155(SC):: 2017 (6) CTC 331

Rajasthan Wakf Board vs. Devki Nandan Pathak and others

Date of Judgment: 05.04.2017

Wakf Act, 1995(43 of 1995), sEctions 83,85,51 & 52 – Wakf Tribunal jurisdiction – Express bar of Civil Court jurisdiction – Suit land adjoining Wakf property, sold by alleged owner to third party – Wakf Board filed Suit to cancel Sale deed – Wakf Tribunal decided suit on merits and decreed suit – High Court set aside Order of Tribunal on ground of jurisdiction – Jurisdiction of Wakf Tribunal – scope of – Wakf Tribunal can decide whether suit land is Wakf property or not – once property declared as Wakf property, sale without prior permission of Wakf Board void under Section 51 – pleadings establish that Wakf Board has jurisdiction to decide suit on merits – Jurisdiction of Civil Court barred in matters falling under Sections 51 & 52 – Appeal allowed – Matter remanded to High Court to decide on merits as to validity of Tribunal's findings.

2017 (6) SCC 787 :: 2017 (5) Scale 485

Jasveer Singh and another vs. State of Uttar Pradesh and another

Date of Judgment: 01.05.2017

Land Acquisition – Land Acquisition Act, 1894 – Section 4,6 & 23 – Right to fair compensation and transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 – Section 24(2) – Land acquisition proceedings – prayer for quashing the proceedings – Maintainability when challenge barred by laches acquisition was initiated vide notification dated 18.08.1991 ‘for construction of new broad gauge railway line’ – urgency clauses was invoked – possession of the land was taken on 19.09.1986 and the award was made in 22.09.1986 – reference filed u/s 18 for enhancement of compensation was decided vide award dated 07.12.1988 – appeals against that award were decided vide award dated 07.12.1988 – appeals against that award were decided by the High Court on 29.01.2004 – This court remanded the matters to the High Court having regard to the grievance of appellant against denial of statutory benefits – fresh writ petition – High Court directed redetermination of compensation – that order was set aside by this Court on 16.10.2012 and matter was remanded to the High Court – plea raised in the writ petition against validity of acquisition was rejected as impermissible – High Court dismissed the petition as barred by laches – SLP dismissed – This Court however, granted liberty to appellants to work out their grievance based on the new Land Acquisition Act(2013) by preferring appropriate proceedings – High Court dismissed writ petition – appellants were paid compensation and possession was duly taken – whether challenge of appellants is barred by laches – Held, yes.

2017 (6) SCC 751:: 2017 AIR 2450 (SC):: 2017(3) CTC 740

Government (NCT of Delhi) vs. Manav Dharam Trust and another

Date of Judgment: 04.05.2017

A. Land Acquisition and Requisition – Right to fair compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 – Section 24(2) – transfer of land, after initiation of acquisition proceedings under 1894 Act – validity of, when the acquisition proceedings lapse by virtue of S.24(2) – Held, on account of the lapse, the encumbrance created in favour of the State comes to an end, and resultantly, the impediment to encumber or transfer the land also comes to an end – transfer of property Act, 1882, Ss.7, 8 and 10.

B. Land Acquisition and Requisition – Right to fair compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 - Under the 2013 Act, all persons claiming interest in compensation to be paid on account of the acquisition of land, are “persons interested” – further, amongst others, a person whose name is recorded as owner of the land or building or part thereof in the records of the authority concerned, is a “landowner” – even a family residing in the lands sought to be acquired, be it an owner or not is an “affected family” and if a family or a person is affected, necessarily, he has a right to approach the court to protect his interests – Therefore, subsequent purchasers/successors, etc., being people affected by the acquisition, have the locus standi to file the petition seeking declaration of lapse of acquisition proceedings.

C. Land Acquisition and Requisition – Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 – Section 24 - Land acquisition proceeding – When lapses – Disjunctive and independent nature of the two grounds provided under S.24(2) when the proceedings would lapse – Reiterated, the land acquisition proceedings contemplated under S.24(2) of the 2013 Act would take in either failure by State, in respect of payment of compensation or taking of possession within the five year period prior to 01.01.2014 and if either failure is established the entire land acquisition proceedings would lapse under the deeming provision.

D. Land and Acquisition and Requisition – Land Acquisition act, 1894 – Ss.9 and 3 – Subsequent purchasers – Rights of – right to claim compensation – subsequent purchaser, reiterated, has the right to claim compensation, being a person interested in the compensation, despite having no locus standi to challenge the acquisition proceedings.

SUPREME COURT – CRIMINAL CASES

2018 (1) TLNJ 45 (Criminal)

Asharfi vs. State of Uttar Pradesh

Date of Judgment: 08.12.2017

Indian Penal Code, 1860 Section 450, 376(2)(f), 323 and Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act, 1989, Section 3(2)(iv) – Offence under – Conviction under S.376(2)(g) based on the evidence of PW-3 and PW-4 and the medical evidence – charge of rape proved – No interference required – After the amendment of SC/ST Act, mere knowledge of the accused that the person upon whom the offence is committed belongs to SC/ST community suffices to bring home the charge under Section 3(2)(v) of the SC/ST Act – Occurrence happened before amendment – Hence in the absence of evidence proving intention of the appellant in committing the offence upon PW-3, only she because she belongs to Scheduled Caste community, the conviction of the appellant under Section 3(2)(v) of the SC/ST Prevention of Atrocities Act cannot be sustained – conviction under section 376(2)(g) IPC and other offences and sentence of imprisonment imposed are confirmed.

2018 (1) TLNJ 89 (Criminal)

State of Himachal Pradesh vs. Raj Kumar

Date of Judgment: 08.01.2018

Indian Penal Code, 1860, Section 302 – Murder – High Court acquitted the accused on the ground that improvement in the evidence of P.W.1/son of deceased – PW-1 clearly spoken as to the attack on deceased Devi by the accused and the subsequent threat to PW-1 by the accused and another – Evidence of PW-1 cannot be doubted simply because names of A-2 and 3 were not mentioned in his statement recorded immediately after bringing down the hanging body of deceased from the tree since PW-1 was only aged nineteen years heard the cries of his mother at the time when she was beaten and he was already threatened by accused to inform PW-3 that deceased had run away – deceased after the death of her husband living with children and accused in a joint family – If deceased was so missing, the natural conduct of the accused was to inform the police and also PW-3 – not done – burden is cast upon the accused, being the inmate of the house to give a cogent explanation as to how deceased died – deceased was last seen alive in the company of accused – Appeal by state allowed.

2018 (1) TLNJ 125 (Criminal)

Balakrishnan and others vs. State of Tamil Nadu

Date of Judgment: 18.01.2018

Indian Penal Code, 1860, Section 302/34, 307 & 326 – Offence – Conviction and Sentence – Appeal – Contended that A-5 and 8 PW-4 was not examined under Section 161 Cr.P.C. and injury No.4 suffered by the deceased was found to be sutured by the doctor who performed the postmortem – Merely because the defence witnesses have not been contradicted by reference to their previous statements following the provisions of Section 145 of the Evidence Act would not permit the Court to accept the version as unfolded by the said witnesses to be the correct version – Appeal dismissed.

2018 (1) TLNJ 174 (Criminal)

Subhash Chander Bansal vs. Gian Chand and others

Date of Judgment: 25.01.2018

Indian Penal Code, 1860, Section 307 & 325 – Appeal against order of High Court by accused against sentence awarded – High Court opined that, no case was made out under Section 307 IPC, but it was essentially a case of a “grievous hurt” falling under Section 325 IPC – It was based on proper appreciation of entire prosecution evidence – no reason to disturb it for convicting the respondents under Section 325 IPC instead of Section 307 IPC – awarding of sentence for an offence punishable under Section 325 read with Section 34 IPC is concerned, the High Court was of the opinion that the respondents have already undergone some reasonable sentence – in addition, a fine of Rs.50,000/- was also awarded – incident in occurred as in 1988 – one injured expired and injured were duly compensated – quantum of fine awarded in 1988 or so appears to be just and reasonable – Appeal dismissed.

CDJ 2017 SC 1005:: 2017 10 Scale 417; 2017 8 Supreme 674; 2017 0 Supreme (SC) 788;

N. Harihara Krishnan vs. J. Thomas

Date of Judgment: 30.08.2017

A. Negotiable Instruments Act, 1881 – Section 142 r/w clause (c) Proviso, section 138 – Limitation – Cognizance of an offence u/s 138 – Cannot be taken unless complaint is filed within one month of cause of action.

B. Negotiable Instruments Act, 1881 – Section 141 – Appellant Director of the company DAKSHIN from whose account cheque was drawn – Every person signing a cheque on behalf of a company does not become drawer of the cheque – Application for summoning DAKSHIN barred by limitation – DAKSHIN not making any grievance against summoning – Does not preclude appellant from raising such defence – DAKSHIN can raise such defence during course of trial – Appellant could not be non-suited on such ground.

MADRAS HIGH COURT – CIVIL CASES

2018 (1) TLNJ 320 (Civil)

The Oriental Insurance Co. Ltd., vs. Ramakkal and others

Date of Judgment: 06.04.2017

Motor Vehicles Act, 1988, Section 166, 173 – Appeal by Insurance Company – Negligence – Case of head-on collision between STC bus and lorry insured with Appellant – Deceased was passenger in bus – tribunal held insurer of lorry liable to pay – Appeal by insurer – contention – STC driver negligent and liable to pay compensation – In connected appeal arising out of same accident in CMA Nos.1308 of 2005 and 1147 of 2017, filed by insurer and STC wherein both held liable to pay – held – case of composite negligence – both the drivers died in accident – eye witness in cross admitted he was at home during accident – in absence of direct evidence, based on 2015 (1) TNMAC 801 (SC), both drivers liable as joint teasors – Both Insurer and Transport corporation liable to pay – Appellant granted liberty to seek 50% compensation from transport Corporation – CMA is dismissed with observation.

2018-1-L.W.19

R. Frederick vs. H. Malini

Date of Judgment: 07.11.2017

Indian Divorce Act, Sections 10 (ix), (x), 32

Mental cruelty – Accusations by respondent against appellant unsubstantiated with respect to adulterous living – Appellant subjected to matrimonial cruelty – suspicious nature of respondent – Physical assault – effect of

Long and separate living of appellant and respondent for about 19 years has practically made it impossible for a re-union – matrimonial life has irretrievably broken

2018-1-L.W.31

Thirumalammal and others vs. Subbiah Thevar and others

Date of Judgment: 24.10.2017

Specific Relief Act (1963), Section 16

10 years time was given to perform agreement – suit filed 10 days prior to expiry of 10 years agreement – No pre-suit notice issued – plaintiffs have not taken any steps to deposit balance sale consideration – plaintiffs have not established factum of readiness and willingness through out agreement period

2018-1-L.W.36

**The Special Tahsildar (L.A.III), T.N. Housing Board Scheme, Nandanam, Madras-35
vs.
Padmalakshmi Ammal**

Date of Judgment: 23.10.2017

Land Acquisition Act, Sections 23, 24, 34, solatium, Interest, grant of

Held: claimants are entitled for interest on solatium – position prior to *Sundar*'s case 2002-2-L.W.39 (SC) and after – scope

2018-1-L.W.55

C. Andiappan vs. M. Ardhanari and others

Date of Judgment: 11.10.2017

Evidence Act, Section 92

Suit on promissory note – promissory note is not supported by consideration Deposit of title deed would not create a mortgage

If the plaintiffs want to establish that the sale consideration was different from what has been recited in the document, the plaintiffs can succeed only if they are able to establish the sale consideration recited in, was only a lesser amount than the actual sale consideration agreed between the parties

Unless plaintiffs show that their claim falls within any one of the provisos of Section 92, the evidence of a different bargain than what is set out in the document itself cannot be looked into by the Court

2018-1-L.W.62

Manickammal and others vs. R. Jayaraman (died) and others

Date of Judgment: 23.11.2017

C.P.C., Order 7 Rule 3, correct description of property mentioning of, need for, claiming of relief, scope

Survey and Boundaries/Correct description, scope

Plaintiffs have not clearly described the property so as to identify it with correct boundaries and with correct survey numbers as had been demarcated in the record of settlement or the revenue survey by revenue authorities

Plaintiffs have neither given sub-division number – vague description of suit property

It has not been established predecessor in title of plaintiffs had title to property – Parties would not have intended to convey the property – Intention of the parties could be gathered from parent title deeds when plaintiffs' predecessor in interest had no right or title to convey the property situated to the East of Odai and had only right and title to convey the property situated to the east of the first defendant's land – Contention of the plaintiffs that they had acquired right or title to the property situated to the East of Odai as such cannot be countenanced – 1996-1-L.W.443 referred to

2018-1-L.W.88

P. Rengarajulu and another vs. Ahilandeswari alias Akila

Date of Judgment: 27.07.2017

Benami Transactions (Prohibition) Act (1988)

Benami – Proof of – onus – on whom

Onus on plaintiff to establish suit properties had been acquired – Joint mortgage of properties cannot be taken into consideration for holding suit properties was purchased benami – plaintiff failed to establish source of the funds

2018 (1) TLNJ 226 (Civil)

Alauddin Batcha. M. vs. Rahmathunisa

Date of Judgment: 08.01.2018

Family Court Act, 1984, Section 19 – Permanent custody of minor son – Petition – by father/petitioner stating that he has legal right as a father of his male child and he is also depositing periodical amount in the Bank for the welfare of his son – rejected – Appeal – any amount of deposit in the name of the minor without contributing for his development at present does not lead to infer that the appellant is helping for the welfare of the child at present – there no evidence that Petitioner contributed any amount towards the education of the child or for his food and clothing – But respondent/wife putting his son in reputed school and spending huge amount towards school fee – Petitioner also not denied his allegation made earlier even denying the paternity of the child when same brought to his notice in cross examination – Child, 11 years expressed his desire to be with her mother instead of going with his father – Appeal dismissed.

2018 (1) TLNJ 229 (Civil)

Jeyaprakash vs. Chinna Veerappan. AL.AR.K.VR and others

Date of Judgment: 19.01.2018

Constitution of India, 1950 Article 227 – Suit to declare title and permanent injunction – Petitioner also filed I.A. to receive reply statement dismissed on the ground that the plaintiffs are trying to change the cause of action and trying to fill up lacuna – Revision – Though the revision petitioner stated in his plaint that the suit property belonged to the Jamin and though claimed title by adverse possession, file present petition stating that he has purchased the property from one of the legal representatives of the Jamin which is totally contrary to the claim made in the plaint – an application has been filed to incorporate all these developments in the plaint which will change the entire character of the suit – is an attempt to protract the proceedings – Civil Revision dismissed.

CDJ 2017 MHC 6179 :: 2017 0 Supreme(Mad) 1788

Saroja (died) and Others

vs.

A. Ramakichenane, Rep. by his Power of Attorney agent, G. Ranganathan

Date of Judgment: 21.09.2017

A Notary, as contended by the appellants is completely different from a Notaire under the French system. A document has got to be prepared by a Notaire and the same has to be counter-signed by the parties and such a document is an authenticated document. As rightly contended by the counsel for the appellant, Notaires are discharging quasi- judicial powers. The document vide Ex.A3, i.e. the Sale Deed, dated 23.09.1966, which is nothing but a Notarized Sale Deed executed under the erstwhile French Law in Puducherry has a legal sanctity in the eye of law and all the Notarized Deeds are equivalent to a decree of a Civil Court.

MADRAS HIGH COURT – CRIMINAL CASES

2018 (1) TLNJ 31 (Criminal)

State by Inspector of Police, Vigilance and Anti Corruption, Vellore vs. V.S. Sampathgiri

Date of Judgment: 11.12.2017

Indian Penal Code, 1860, Section 420, 468, 471 r/w 477 (a) and Prevention of Corruption Act, 1988, Section 13(2) r/w 13(1)(d) – Fake appointment order – offence under the act – accused acquitted – Appeal by state – Based on the expert opinion that the initial and date found in the appointment order is that of accused, the accused cannot be held guilty for the grave offence of cheating and misconduct – it is found that somewhere in the year 1993, the forged document marked as Ex.P.2 has been created – from the evidence of PW.2, forged appointment order was alleged to have been given by the respondent – neither approached the police nor informed the Social Welfare Department about this fake appointment order – only after two years, on some reliable information, the appellant has registered a case – respondent had some role in fabricating Ex.P.2 – not sufficient and adequate to hold the respondent guilty – when there are two versions possible, while appreciating the evidence, the trial Court rightly taken one version in favour of the accused person – Criminal appeal dismissed.

2018 (1) TLNJ 49 (Criminal)

P. Manivel vs. T. Seenivasan

Date of Judgment: 04.01.2018

Negotiable Instrument Act, 1881, Section 138 and 139 – Conviction and sentence with compensation awarded in a cheque dis-honour case – Set aside on appeal by sessions court – Petition against – if the accused accepts the issuance of the cheque, the presumption under Section 139 N.I.Act would extend to the debt also – But case accused taking a consistent stand that he does not know the complainant at all – Of course, in every case, it is not necessary for the complainant to obtain promissory note or any other collateral document evidencing the debt, because prosecution under Section 138 N.I.Act can be launched based on a hand loan also – when the accused had taken a clear stand right from the beginning i.e., from the date of issuance of the reply notice/Ex.P6 that he has no business transaction with the complainant at all, the burden shifts upon the complainant to satisfactorily show that there was a subsisting debt – accused waived his right of silence under Section 315 Cr.P.C., got into the witness box and gave evidence that he had borrowed money from the complainant's father and for which he gave a blank but signed cheque and promissory note to him – clearly discharged the burden under Section 139 N.I.Act – when there are two views possible, the view in favour of the accused would merit consideration – Not a fit case to grant special leave to the complainant to file appeal against the acquittal of the accused.

2018 (1) TLNJ 52 (Criminal)

P. Adhimoolam and another

vs.

State by Inspector of Police, All Women Police Station, Hosur and another

Date of Judgment: 02.01.2018

Indian Penal Code 1860, Section 498 (A) – Complaint against father and mother in laws of 2nd Respondent – Quash petition matrimonial life of the petitioners son and the 2nd respondent is not fine and was felt as irretrievable break down – Petitioners son filed a divorce petition – 2nd respondent filed her counter in the year 2008 – 2nd respondent stated that there was demand of dowry when her uncle went to house of petitioner and further defacto complainant was prevented by the petitioners from entering their house by locking the main doors – counter filed in the year 2008 in the divorce proceedings initiated by the petitioner’s son – neither stated nor even alleged any ill deeds as against the petitioners herein – Counter exclusively projects the 1st accused as the sole offender and reason for the matrimonial dispute – R.2 living in her parental house for the preceding 4 years – Further the records disclose exchange of notices between the 1st accused husband and the 2nd respondent and they also filed complaints – Court not inclined to accept that 2nd respondent that was prevented by her in-laws from entering their house – both the petitioners are aged more than 60 years and even it is assumed that they have closed their House doors, it may not be termed or equated to be a cruelty faced by a wife, who was not resident therein for the preceding 4 ears, but the same would be only for their security purpose – It reiterates that living away from a family does not save the parents from false cases by their daughter-in-laws – Petition allowed.

2018 (1) TLNJ 57 (Criminal)

A. Ramasamy vs. Inspector of Police, Avaniapuram, Madurai and 2 others

Date of Judgment: 08.01.2018

Criminal Procedure Code, 1973 Section 427 (2) – petitioner was convicted sentenced life imprisonment under section 302 and subsequently he was convicted under section 307 and sentenced 5 years imprisonment – if a person already undergoing a sentence of imprisonment for life is sentenced on a subsequent conviction to imprisonment for a term or imprisonment for life, the subsequent sentence shall run concurrently with such previous sentence – In view of the sub-section 2 of Section 427 Cr.P.C., the subsequent sentence which was imposed under section 307 shall run concurrently with the previous sentence of imprisonment for life – Criminal Original Petition allowed.

2018 (1) TLNJ 65 (Criminal)

Vinoth vs. State by Deputy Superintendent of Police Villupuram

Date of Judgment: 22.12.2017

Criminal Procedure Code, 1973 Section 397 and 401 – Hon’ble acquittal – Revision to set aside the order of trial which acquitted the accused on benefit of doubt and to declare the accused are honourably acquitted – There is no evidence against these accused persons – no incrimination evidence against these accused persons – Hence Trial Court should not have used the expression ‘benefit of doubt’ – Supreme Court also pointed out that even in cases where there is no evidence against the accused, the Criminal Court should simply say ‘acquitted’. – In this case also, there is no evidence against these accused persons and therefore, the accused persons must be ordered to be acquitted.

2018 (1) TLNJ 80 (Criminal)

P. Gnanaraj vs. State by Inspector of Police, Thevarkulam, Tirunelveli District

Date of Judgment: 21.12.2017

Indian Penal Code, 1860, Section 392 and 304(ii) – Evidences of PW-1 and PW-2 that when accused Nos.1 to 3 came to their house and started to detach the Cement tank by using the spade, deceased shouted at them and tried to stop them – further accused abused and attacked the deceased with spade on her head – On hearing the alarm by PW-1 and 2, the villagers rushed to the place of occurrence – Presence of PW-1 and 2 at the occurrence quite natural – Though PW-1 and PW-2 are interested witnesses, their evidences are duly corroborated by the medical evidence and evidence of PW-3 and 4 who took the deceased and PW-1 to the Hospital – no premeditation – A.1 came to the occurrence place only for the purpose of taking the Cement Tank – due to quarrel between the A-1 and deceased, there is every possibility that the deceased would have provoked the first accused – no motive for the A-1 to commit the murder of the deceased – accused was armed with a spade only for the purpose of taking the Cement Tank – act of the accused would squarely fall within the Third Limb of Section 304(ii) instead of 302 IPC. – Criminal Appeal is partly allowed.

2018 (1) TLNJ 118 (Criminal)

Gnanasekaran

vs.

State of Tamil Nadu by deputy Superintendent of Police Gantharvakottai, Pudukkottai District

Date of Judgment: 02.01.2018

Indian Penal Code, 1860, Section 147, 148, 341, 323, 294(b), 324 & 307 and Scheduled Castes r/w Scheduled Tribes) Prevention of Atrocities) Act, 1989 Section 3(1)(x) and 3(2)(v) – offence – clash ensued between the members of the Dalit Community and Caste Hindu – Petition to transfer and tried both cases by Principal District and Sessions Judge – dismissed – Revision – both sides had suffered injuries – this is a case and cross case – where there are cross cases, learned Judge must try both the cross cases one after the other – High Court allowed the petition and to directed to follow the procedures – Petition allowed.

2018 (1) TLNJ 145 (Criminal)

R. Raja vs. Alis Stellamary

Date of Judgment: 02.02.2018

Criminal Procedure Code, 1973, Section 125 – Petition to set aside the order of court below which directed husband to pay maintenance Rs.1000/- per month – Even the divorced woman is having a right to ask maintenance from her husband – petitioner not obtained an order of divorce from the appropriate forum – Also not shown that the wife having sufficient means to maintain herself – it is the duty of the petitioner, who happened to be the husband of the respondent, has to prove that the respondent, who is seeking maintenance, is having sufficient means to maintain herself – Award passed by the trial Court not excessive – Criminal Original Petition dismissed.

2018 (1) TLNJ 148 (Criminal)

Josiyakara Murugesan @ Murugesan vs. State by Inspector of Police Mettur, Salem District

Date of Judgment: 02.02.2018

Indian Penal Code, 1860, Sections.436, 449, 302 and 506(ii) – Charges that accused set fire on the Gowdon of the deceased and stabbed deceased for the reason that deceased failed to give work to accused and also failed to give money to him even demanded – there is no motive for the witnesses to falsely implicate the appellant/accused in the case – Presence of P.Ws.1 to 3 in the house is very normal since occurrence happened inside the house of the deceased – Though P.Ws.1 to 3 not specifically stated about the number of injuries caused by the accused, it is to be noted that when the witnesses encounters such a drastic attack unexpectedly, one cannot expect them to give the minute details as to the number and nature of injuries caused by the assailant – Section 436 cannot be inferred against accused merely on the basis of such recovery of kerosene stove by IO alone, when the evidence of the witnesses is silent about the use of such material object – conviction and sentence for the offence under section 436 set aside – others confirmed – Appeal dismissed with modification.

2018 (1) TLNJ 162 (Criminal)

R. Manimehalai vs. Banumathi

Date of Judgment: 06.02.2018

Negotiable Instrument Act, 1881, Section 138 – Revision by accused against conviction and sentence – Cheques returned due to insufficient funds and signature of the drawer differs – accused sent a belated reply to the statutory notice received from complainant where also accused did not take the plea that her signature has been forged in the cheque – but taken a plea that the cheque was issued by her for a different debt – accused took pains to examine his Bank Manager to say that the signature in the cheque differed from the specimen signature with the bank – It shows that the accused deliberately put her signature differently in the cheque with the intention of cheat the complainant – accused failed to discharge her burden even by preponderance of probabilities – Revision dismissed.
