



# TAMIL NADU STATE JUDICIAL ACADEMY

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## IMPORTANT CASE LAW



### HEADQUARTERS, CHENNAI

No.30/95, P.S.K.R. Salai, R.A. Puram, Chennai – 600 028  
Phone Nos. 044– 24958595 / 96 / 97 / 98 Fax: (044) 24958595  
Website: [www.tnsja.tn.nic.in](http://www.tnsja.tn.nic.in) E-Mail: [tnsja.tn@nic.in](mailto:tnsja.tn@nic.in)/[tnsja.tn@gmail.com](mailto:tnsja.tn@gmail.com)

### REGIONAL CENTRE, COIMBATORE

No.251, Scheme Road, Race Course, Coimbatore - 641 018.  
Telephone No: 0422 - 2222610/710  
E-Mail:[tnsja.rc.cbe@gmail.com](mailto:tnsja.rc.cbe@gmail.com)

### REGIONAL CENTRE, MADURAI

Alagar Koil Road, K.Pudur, Madurai - 625 002.  
Telephone No: 0452 - 2560807/811  
E-Mail:[tnsja.rc.mdu@gmail.com](mailto:tnsja.rc.mdu@gmail.com)

# INDEX

<b>S. No.</b>	<b>IMPORTANT CASE LAW</b>	<b>PAGE No.</b>
1.	Supreme Court – Civil Cases	01
2.	Supreme Court – Criminal Cases	03
3.	High Court – Civil Cases	05
4.	High Court – Criminal Cases	09

# TABLE OF CASES WITH CITATION

## SUPREME COURT - CIVIL CASES

S. No.	CAUSE TITLE	CITATION	DATE OF JUDGMENT	SHORT NOTES	Pg. No.
1	Sunkamma (Dead) by Lrs. vs. S.Pushparaj (Dead) Br Lrs.	2018 (2) MLJ 222 (SC)	14.12.2017	Property Laws – Possession – Permanent Injunction	01
2	Nagaiiah and Another vs. Smt.Chowdamma (Dead) By Lrs. and Another	2018 (2) MLJ 242 (SC)	08.01.2018	Suit by minor – Next friend of minor – Order XXXII Rules 1 and 3 C.P.C	01
3	Mohinder Kumar Mehra vs. Roop Rani Mehra and Others	2018 (2) SCC 132 (Civil)	11.12.2017	Amendment of pleadings – Order VI Rule 17 C.P.C.	02
4	Urmila Devi and Others vs. Deity, Mandir Shree Chamunda Devi	(2018) 2 SCC 284 (Civil)	10.01.2018	Contract and Specific Relief – Compensation in lieu of Specific Performance	02
5	Nasiruddin and Another vs. State of Uttar Pradesh	2018 (1) SCC 754 (Civil)	06.12.2017	Stamp Act – Definition of “Lease” – Nature and Scope	02

## SUPREME COURT - CRIMINAL CASES

<b>S. No.</b>	<b>CAUSE TITLE</b>	<b>CITATION</b>	<b>DATE OF JUDGMENT</b>	<b>SHORT NOTES</b>	<b>Pg. No.</b>
1	Ratanlal vs. Prahlad Jat and Other	2018 (1) L.W. 267 (CrI.)	15.09.2017	Recall and Re-examination of witnesses – Section 311 Cr.P.C.	03
2	Athul Rao vs. State of Karnataka and another	2018 (1) L.W. 287 (CrI.)	18.08.2017	Further investigation – Ordering of	03
3	Prabhu Dutt Tiwari vs. The State of Uttar Pradesh and Others	2018 (1) L.W. (CrI.) 475	07.12.2017	Issue of process – Section 204 Cr.P.C.	03
4	Mohammed Abdulla Khan vs. Prakash.K	2018 (1) L.W. (CrI.) 477	04.12.2017	Defamation – Sections 499, 500, 501, and 502 Cr.P.C.	04
5	Chand Devi Daga and Others vs. Manju K.Humatani and Others	2018 (1) L.W. (CrI.) 489	03.11.2017	Death of Complainant – Whether LRs. Can prosecute complaint	04

# MADRAS HIGH COURT - CIVIL CASES

S. No	CAUSE TITLE	CITATION	DATE OF JUDGMENT	SHORT NOTES	Pg. No.
1	Sree Mahaveer Fund Private Limited, rep. by its Managing Director, J.Gouthamchand vs. Thamarai Selvi and others	2018 (1) L.W. 973 (Civil)	02.01.2018	Suit for declaration of title – Preliminary Issue – Jurisdiction	05
2	Amanullah vs. Elumalai and others	2018 (1) L.W. 977 (Civil)	19.01.2018	Muslim Law – Settlement Deeds – Undivided share	05
3	Mrs.S.Rathinammal and Others vs. Mrs.C.Chamundeeswari (Since deceased) and Others	2018 (1) L.W. 865 (Civil)	30.01.2018	Partition – Unprobated will	05
4	J.V.Jonadab vs. V.Sugirtha	2018 (1) L.W. 903 (Civil)	05.02.2018	Divorce Act – Non-consummation	06
5	Adivappa and other vs. Bhimappa and another	2018 (1) L.W. 957 (Civil)	06.09.2017	Hindu Law – Joint Family – Legal Presumption	06
6	Padmini and Others vs. Mayavaram Chits Corporation Limited, Mayiladuthurai, by its Rep. Managing Director, Mayiladuthurai and others	2018 (2) MLJ 225	05.01.2018	Execution Proceedings – Auction Sale	07
7	1. Padmini 2. Vijayakumar 3. Saraswathy vs. Mayavaram Chits Corporation Limited	2018 (1) CTC 819 (Civil)	05.01.2018	Execution Proceedings – Auction sale of Guarantor's property – Validity of	07
8	Bajaj Auto Limited, Pune vs. TVS Motor Company Limited, Chennai	2018 (1) CTC 849 (Civil)	05.01.2018	Order XIX C.P.C. – Proof Affidavit – Portion of – Whether can be expunged	07
9	M.Ramakrishnan (Died) and others vs. Hindustan Petroleum Corporation Ltd.,	2018 (1) CTC 876 (Civil)	09.10.2017	Recovery of possession by lessor – Entitlement to – Continuous possession by Tenant/Lessee	08
10	Ashok Kumar vs. Latha	2018 (2) CTC 225 (Civil)	05.01.2018	Suit for recovery of money – Statutory presumption under Section.118 of NI Act	08

# MADRAS HIGH COURT - CRIMINAL CASES

S. No	CAUSE TITLE	CITATION	DATE OF JUDGMENT	SHORT NOTES	Pg. No.
1	Augustin S/o.Madhalaimuthu and Others vs. State represented by the Inspector of Police, District Crime Branch , Dharmapuri and Others	2018 (1) L.W. 190 (CrI.)	05.07.2017	Final report – Protest petition – Prayer for further investigation	09
2	G.Subbaraman vs. State rep. by Inspector of Police, SPE, CBI, ACB, Chennai	2018 (1) L.W. 203 (CrI.)	05.02.2018	Prevention of Corruption Act – Cheating – Purchase of foreign bills by chief manager of bank beyond permissible limit	09
3	Christopher Sam Miller vs. The Inspector of Police, District Crime Branch, Nagarcoil	2018 (1) L.W. 274 (CrI.)	21.11.2017	Specimen signature – Section 311-A Cr.P.C.	10
4	Sivaprakasam vs.State rep. by the Inspector of Police, All women Police Station Dharmapur District	2018 (1) L.W. 331 (CrI.)	18.12.2017	Offences under Sections 376, 417 and 506(ii) IPC – Evidence of victim girl	10
5	Arokiyaraj vs. State, rep. by the Inspector of Police, Karaikal	2018 (1) MLJ (CrI.) 593	14.12.2017	Culpable homicide not amounting to murder – Appreciation of evidence	11
6	M.Thiruselvam vs. State, by the Deputy Superintendent of Police, Central Bureau of Investigation ACB, Chennai.	2018 (1) MLJ (CrI.) 634	05.02.2018	Return of property – Tainted money recovered – Non-marking of property	11
7	T.K.Srinivasan vs. The State rep.by Protection Officer, Domestic Violence Act Singaravclar Maligai, Chennai. Central Bureau of Investigation ACB, Chennai.	2018 (1) L.W (CrI.) 360	28.02.2018	Domestic Violence Act – Aggrieved person – Domestic relationship	12
8	Renganathan and Others vs. State rep.by its, The Inspector of Police	2018 (1) L.W. (CrI.) 448	20.02.2018	Murder of senior citizen – Circumstantial Evidence – Motive	12
9	Krishna Kumar Sood vs.Srinath Rajam	2018 (1) MLJ (CrI.) 649	22.12.2017	Trial – Forged documents – Sections 195(1)(b)(i), 340, and 482 Cr.P.C.	13
10	Lessac Research Lab (P) Ltd., vs. State rep.by Inspector of Police	2018 (1) MLJ (CrI.) 692	21.12.2017	Discharge petition – Prima facie case for framing charge	13

## **SUPREME COURT – CIVIL CASES**

**2018 (2) MLJ 222 (SC)**

**Sunkamma (Dead) by Lrs. vs. S. Pushparaj (Dead) Br Lrs.**

**Date of Judgment: 14.12.2017**

Property Laws – Possession – Permanent injunction – Suit filed by Respondent / Plaintiff for permanent injunction restraining Appellants / Defendants from interfering with Plaintiff’s peaceful possession of suit property consisting of two sites was partly decreed with regard to second site and dismissed suit with regard to first site – Both Plaintiff and Defendants filed appeal – High Court allowed appeal filed by Plaintiff with regard to first site and dismissed appeal filed by Defendants, hence this appeal – Whether Lower courts rightly decided suit filed by Plaintiff for permanent injunction on question of possession – Held, present suit and further appeal emanates from suit pertaining to permanent injunction – Touchstone upon which said suit had to be decided was “lawful possession” and not “owner-ship” – Separate suit filed by defendants against Vendor and Respondents, for declaration that Defendants were owners of Schedule property which includes first site and other reliefs was dismissed against which appeal had been filed and pending, therefore, no opinion expressed on question of title and ownership of Plaintiff on basis of registered general power of attorney – Lower courts rightly decided suit filed by Plaintiff for permanent injunction on question of possession – Based on general power of attorney and evidence of PWs 1 and 2/Plaintiff and his vendor, High Court rightly held that Plaintiff was in possession – Appeal dismissed.

**2018 (2) MLJ 242 (SC)**

**Nagaiah and Another vs. Smt.Chowdamma (Dead) By Lrs. and Another**

**Date of Judgment: 08.01.2018**

Civil Procedure – Suit by Minor – Next Friend of Minor – Code of Civil Procedure, 1908 (Code), Order XXXII, Rules 1 and 3 – Hindu Guardianship Act (Act), Section 4(b) – 2<sup>nd</sup> Appellant was minor at time of filing suit for declaration and 1<sup>st</sup> Appellant / elder brother of 2<sup>nd</sup> Appellant filed suit on behalf of him – Trial Court dismissed suit and on appeal, first Appellate Court decreed suit – On second appeal by 2<sup>nd</sup> Defendant, High Court dismissed suit on grounds that 1<sup>st</sup> Appellant could not act as guardian of 2<sup>nd</sup> Appellant during life – time of natural guardian / father of Appellants / 2<sup>nd</sup> Respondent and further 1<sup>st</sup> Appellant was not appointed as guardian by Court, hence this appeal – Whether 1<sup>st</sup> Appellant being elder brother could have filed suit on behalf of 2<sup>nd</sup> Appellant/minor as his next friend / guardian – Held, facts are not governed by Act but by Order XXXII of Code – Bare reading of Order XXXII, Rule 1 of Code clears that every suit by minor shall be instituted in his name by person who shall be called “next friend” of minor – Next friend need not be duly appointed guardian under Section 4(b) of Act – Order XXXII Rules 1 and 3 of Code make distinction between next friend and guardian ad litem – No leave of Court necessary for next friend to institute suit when filed on behalf of minor – 2<sup>nd</sup> Plaintiff on attaining majority had continued with suit which means he elected to proceed with suit – 2<sup>nd</sup> plaintiff has not made allegation against 1<sup>st</sup> Plaintiff / his next friend, after he attained majority – Impugned order relying upon provisions of Act to non-suit 2<sup>nd</sup> Plaintiff not justified – Matter remitted to High Court – Appeal allowed.

**(2018) 2 SCC 132 (Civil)**

**Mohinder Kumar Mehra vs. Roop Rani Mehra and Others**

**Date of Judgment: 11.12.2017**

A. Civil Procedure Code, 1908 – Or. 6 R. 17 proviso – Proviso barring entertainment of application for amendment of pleadings after commencement of trial – Trial when commences.

After framing of issues, case was fixed for recording of evidence of plaintiff, but instead of producing evidence, plaintiff took adjournment and in meantime he filed application under R.17 – Plaintiff led evidence thereafter – According to plaintiff, he led evidence even on amended pleadings – Held, amendment application deserved to be allowed.

B. Limitation Act, 1963 – Art. 110 and S.3 – Applicability – Whether suit was for enforcing right to share in joint family property for which limitation period is 12 yrs or it was simpliciter for recovery of money of his share for which limitation period is 3 yrs – Question not possible to be decided at stage of grant of amendment of pleadings prior to recording of evidence - Can be decided only after considering evidence led by parties – Civil Suit – Generally – Nature of suit – Stage at which may be determined – Family and Personal Laws – Family Property, Succession and Inheritance – Family Arrangement/Settlement/ Partition.

**2018 (2) SCC 284 (Civil)**

**Urmila Devi and Others vs. Deity, Mandir Shree Chamunda Devi**

**Date of Judgment: 10.01.2018**

Contract and Specific Relief – Specific Relief Act, 1963 – S. 21 – Compensation in lieu of specific performance – Award of, where agreement to sell immovable property becoming incapable of performance due to acquisition of that property by Government – Quantum of such compensation – Entitlement of vendee under agreement to sell to compensation paid by State for acquisition.

**2018 (1) SCC 754 (Civil)**

**Nasiruddin and Another vs. State of Uttar Pradesh**

**Date of Judgment: 06.12.2017**

Stamp Act, 1899 – Ss. 2(16), (16)(c), (14) & (12) r/w Sch. I Art. 35 – Definition of “lease” under S. 2(16) of Stamp Act – Nature and scope – Contrasted with definition of “lease” as provided in S. 105 of Transfer of Property Act, 1882 – Contract for collection of “tehbazari” and “parking fees” awarded by Municipal Corporation concerned to appellants – Nature of – Held, chargeable to stamp duty as contract is in the nature of a “lease” as defined under Stamp Act, 1899.

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## **SUPREME COURT – CRIMINAL CASES**

**2018 (1) L.W. 267 (Crl.)**

**Ratanlal vs. Prahlad Jat and Others**

**Date of Judgment: 15.09.2017**

Criminal Procedure Code, Section 311 Words and Phrases ‘Locus Standi’

Power to Recall and re examine – scope – PWs 4 and 5 were examined, cross – examined at length – After 14 months, they filed application for their re-examination on ground that statements made by them earlier were under pressure – challenge by paternal brother of deceased – whether has Locus – what is ‘Locus’

held: ‘locus standi’ is ‘ the right to bring an action or to be heard in a given forum’ They have not assigned any reasons for the delay – Sessions Judge justified in rejecting application.

**2018 (1) L.W. 287 (Crl.)**

**Athul Rao vs. State of Karnataka and Another**

**Date of Judgment: 18.08.2017**

I.P.C., Section 306, 417, 465, 468, 471, 497, 498, Further investigation’, ordering of

Criminal Procedure Code, Section 173(8) ‘further investigation’, ordering of, challenge to

held: prayer for further investigation was not at the instance of the investigating agency nor on the ground of detection of material evidence – complaint was instituted by the mother of respondent no. 2. – At the instance of respondent no. 2, it was not open to the court to direct further investigation as the trial court had already framed charges and taken cognizance of the case against appellant.

**2018 (1) L.W. (Crl.) 475**

**Prabhu Dutt Tiwari vs. The State of Uttar Pradesh and Others**

**Date of Judgment: 07.12.2017**

Criminal Procedure Code, Section 204 Order summoning respondents quashed by the High Court – challenge to.

held: at the stage of summoning the accused on the basis of a private complaint all that is required is satisfaction by the Magistrate that there is sufficient ground to proceed against the accused in the light of the records made available and evidence adduced by the complainant High Court wrong in interfering with order summoning accused.

**2018 (1) L.W. (CrI.) 477**

**Mohammed Abdulla Khan vs. Prakash.K**

**Date of Judgment: 04.12.2017**

I.P.C., Sections 499, 500, 501, 502

Criminal Procedure Code Section 482

Respondent owner of a Kannada daily newspaper “Jaya Kirana” published from Managalore, carried a news item containing allegations against appellant defamatory in Nature.

Appellant lodged report against respondent and Editor of newspaper offence of defamation – whether made out.

held: acts of printing or selling or offering to sell need not only be the physical acts but include legal right to sell i.e. to transfer the title in the goods, the newspaper – Those activities if carried on by people, who are employed either directly or indirectly by the owner of the newspaper, render all of them i.e., the owner, the printer or the person selling or offering for sale liable for offences under section 501 or 502.

**2018 (1) L.W. (CrI.) 489**

**Chand Devi Daga and Others vs. Manju K.Humatani and Others**

**Date of Judgment: 03.11.2017**

I.P.C., Section 34, 120-B, 201, 420, 467, 468, 471

Criminal Procedure Code, Section 256, 302 Death of complainant – Legal representatives whether can prosecute complaint – High Court did not commit any error in allowing the legal heirs of the complainant to prosecute.

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## **MADRAS HIGH COURT – CIVIL CASES**

**2018 (1) L.W. 973 (Civil)**

**Sree Mahaveer Fund Private Limited, rep. by its Managing Director, J. Gouthamchand  
vs.  
Thamarai Selvi and others**

**Date of Judgment: 02.01.2018**

Tamil Nadu Court Fees and Suit Valuation Act(1955), Section 12(1)

C.P.C., Order 14 rule, 2, preliminary issue, jurisdiction, issue of, decide.

Suit for declaration of title – Application to decide whether court has pecuniary jurisdiction to try suits – held: petitioner to pay court fee on the market value of the property.

Respondents marked sale deed to prove petitioner has undervalued suits by producing sale deed of adjoining property.

As per Section 12(2), the learned Judge is directed to appoint a senior advocate of the Bar as Commissioner to make enquiry, find out market value of property on date of filing of suits and file his report to pass consequential orders.

**2018 (1) L.W. 977 (Civil)**

**Amanullah vs. Elumalai and others**

**Date of Judgment: 19.01.2018**

Muslim Law/ settlement deeds, undivided share

Held: Muslim lady cannot settle undivided share in property – settlement deeds in favour of the undivided share in respect of the children jointly is bad in law.

**2018 (1) L.W. 865 (Civil)**

**Mrs. S.Rathinammal and Others vs. Mrs.C.Chamundeeswari (Since deceased) and Others**

**Date of Judgment: 30.01.2018**

Partition/ Unprobated WILL, reliance, claim of share, grant of, scope

Succession act (1925) Sections 57, 213, unprobated WILL, Title, claim of, impermissible

Limitation act (1963), Article 59, to set aside document, 3 years, when starts Partition – To declare partition deed, settlement deed, sale deed as null and void – scope.

Claim based on unprobated WILL – Will having not been probated defendants who are claiming as legatees or under the Will are not entitled to establish their right, in view of the bar under Section 213.

Partition deed, settlement deed and sale deed will not be binding on plaintiffs, in respect of the 1/4<sup>th</sup> share.

Plaintiffs not parties to documents came to know about execution of the documents only during 2012 – suit filed in 2013, not barred.

Bonafide purchasers – who are, determination of, how, scope.

Divorce Act (1869), Section 10 (vii)

Held: to attract section 10 (vii), non-consummation should be due to wilful refusal – physical intimacy between spouse is not denied – Divorce sought on ground of wilful refusal to consummate, has no material to stand (Para 8)

**2018 (1) L.W. 903 (Civil)**

**J.V.Jonadab vs. V.Sugirtha**

**Date of Judgment: 05.02.2018**

Divorce Act (1869), Section 10 (vii)

Held: to attract section 10 (vii), non-consummation should be due to wilful refusal – physical intimacy between spouse is not denied – Divorce sought on ground of wilful refusal to consummate, has no material to stand.

**2018 (1) L.W. 957 (Civil)**

**Adivappa and others vs. Bhimappa and another**

**Date of Judgment: 06.09.2017**

Hindu law/ Joint family, presumption

Hindu law – Legal presumption

held: every hindu family is joint in food, worship and estate – In the absence of any proof of division, such legal presumption continues to operate in the family.

**2018 (2) MLJ 225**

**Padmini and Others**

vs.

**Mayavaram Chits Corporation Limited, Mayiladuthurai, by its Rep. Managing Director,  
Mayiladuthurai and others**

**Date of Judgment: 05.01.2018**

Civil Procedure – Execution Proceedings – Auction Sale – Code of Civil Procedure, 1908, Section 47 – 2<sup>nd</sup> Respondent / 1<sup>st</sup> Defendant / borrower took chit amount from 1<sup>st</sup> Respondent – 2<sup>nd</sup> Defendant, deceased husband of 1<sup>st</sup> Petitioner stood as guarantor and pledged his properties – On petition filed by 1<sup>st</sup> Respondent for nonpayment, Petitioners property brought for auction and 3<sup>rd</sup> Respondent was successful auction purchaser – On knowledge of said auction, application filed by Petitioners under Section 47 to declare that award was inexecutable and entire execution proceedings were illegal, null and void, was dismissed, hence this revision – Whether auction sale liable to be set aside – Held, no reference made before coming to conclusion regarding valuation of property – Executing Court without applying its mind as to valuation had put property for auction – 2<sup>nd</sup> Respondent had not shown any interest in contesting proceedings properly – 1<sup>st</sup> Respondent failed to substantiate that they had proceeded against borrower properly with intention to receive back money – Defaulted borrower gone scot free and this substantiates Petitioners' claim that there was collusion and fraud done behind their back – Petitioner, who stood as guarantors had lost his property – If sale not set aside, substantial injury would be caused to Petitioners – Auction sale set aside – Revision allowed.

**2018 (1) CTC 819 (Civil)**

**Padmini 2. Vijayakumar. 3. Saraswathy vs. Mayavaram Chits Corporation Limited.**

**Date of Judgment: 05.01.2018**

Code of Civil Procedure, 1908 (5 of 1908), Order 21, Rules 54(2) & 67- Auction Sale of Guarantor's property – Validity of – Proceedings for Recovery of Money – R2, Borrower conveniently absent during entire proceedings – Property of Guarantor /Petitioners auctioned in favour of R3- Notices issued to Petitioner's old residence – Valuation of property done before same was put in Auction – No basis for valuing property as Rs.1,75,000 – Value of property accepted by Executing Authority without any discussion – Original Borrower scot free and no intention of R1 to prosecute him – No bidders in entire Auction, except for R3, who was neighbour of Borrower – Parties colluding with intention to commit fraud – Petitioner deprived of his Constitutional right of property without following mandate of law – R1, who has lent money and R3, who had paid money for Auction Sale, both can be compensated in terms of money – Petitioner prejudiced, if sale not set aside – Consequently, Order of Executing Court set aside – Auction Sale set aside – Civil Revision Petition allowed.

**2018 (1) CTC 849 (Civil)**

**Bajai Auto Limited, Pune vs. TVS Motor Company Limited, Chennai**

**Date of Judgment: 05.01.2018**

Code of Civil Procedure, 1908 (5 of 1908), Order 19 – Proof Affidavit – Portion of, whether can be expunged – Portions sought to be expunged are not argumentative, but merely considered opinion of Witness – Application to expunge various portions of Proof Affidavit, negative.

**2018 (1) CTC 876 (Civil)**

**M.Ramakrishnan (Died) and Others vs. Hindustan Petroleum Corporation Ltd.,**

**Date of Judgment: 09.10.2017**

Tamil Nadu City Tenants' Protection Act, 1921 (T.N.Act 3 of 1922), Sections 1(3), 2(4), 3&9 – Interpretation of Statutes - Recovery of possession by Lessor – Entitlement for – Continuous possession by Tenant/Lessee – Interpretation as to physical possession – Lease Deed entered in 1973 with Caltex (India) Limited for 20 years – Respondent/Company being successor-in-interest claimed entitlement to Statutory automatic renewal in 1993 for further 20 years under Caltex Act – Appellant denied renewal and sought recovery of possession – Lower Courts held Respondent/Company entitled to Statutory renewal – Lease expired in 2013 during pendency of Second Appeal – Whether Appellant Entitled to recovery of possession in view of Lease expiry – Respondent claimed protection from eviction under Tenants' Act – Tenant defined as “person, who continued in possession of land after determination of Tenancy Agreement” – Interpretation of possession discussed – Held, word “Possession” should only mean actual physical possession of land and building – Respondent must prove actual physical possession and not through Dealer or Agent, to claim benefits of Act – Respondent not in physical possession of retail outlet – No scope for Respondent claiming benefits of Section 3 or 9 of Act – Second Appeal allowed – Judgment and Decree of Courts below set aside – Suit partly decreed – Respondent directed to deliver vacant possession of Suit property – Respondents further directed to pay past mesne profits – Appellants entitled to collect future mesne profits for use and occupation till possession delivered.

Code of Civil Procedure, 1908 (5 of 1908), Order 7, Rule 7 & Order 41, Rule 33 – Tamil Nadu City Tenants' Protection Act, 1921 (T.N.Act 3 of 1922), Section 1(3), 2(4), 3& 9 – Moulding of Relief – Appellate Court considering subsequent events to mould relief – Tenability of – Lease Deed expired during pendency of present Appeal – Respondent/ Corporation expected to surrender possession after Lease expiry, but claimed rights under Tenants Act – Such rights conditional upon physical possession by Respondent – Issue never considered by Courts below as it did not arise earlier – Held, actual physical possession being question of fact, not normally dealt with in Second Appeal – Statutory renewal caused great prejudice to Appellant – Respondent having only legal possession, not actual physical possession of property to claim benefits of State legislation – Appellate Court entitled to consider subsequent events for moulding relief – Expiry of Lease can be considered to shorten litigation and secure ends of justice.

**2018 (2) CTC 225 (Civil)**

**Ashok Kumar vs. Latha**

**Date of Judgment: 05.01.2018**

Evidence Act, 1872 (1 of 1872), Section 118 – Suit for Recovery of money based on Promissory Note – Initial burden is upon Plaintiff to prove execution of Promissory Note – Once execution of Promissory Note is proved, Statutory presumption under Section 118 comes into operation as to passing of consideration – Defendant may also dislodge Statutory presumption – Even circumstantial evidence is sufficient to dislodge Legal presumption – Once Defendant shows preponderance of probabilities to dislodge Legal presumption, burden shifts upon Plaintiff – On facts, Defendant has dislodged Legal presumption – But Plaintiff failed to prove that he had capacity to advance huge amount at relevant time – Promissory Note in question cannot be enforced – Appeal dismissed.

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## **MADRAS HIGH COURT – CRIMINAL CASES**

**2018 (1) L.W. 190 (Crl.)**

**Augustin S/o.Madhalaimuthu and Others**

**vs.**

**State represented by the Inspector of Police, District Crime Branch, Dharmapuri and Others**

**Date of Judgment: 05.07.2017**

Criminal Procedure Code, Section 200 I.P.C., Section 378, 419, 420, 463, 465, 467, 468, 477-A

Final report – Defacto complainant not put on notice – protest petition consideration on merits – prayer for further investigation whether maintainable. Complaint petition under section 200 CRPC for further investigation – It was dismissed – Challenge to that by a revision – Direction for further investigation – Act of taking cognizance, effect of. De facto complainant has not been put on notice of the final report filed in the case – At the stage when the final report was filed before the magistrate, petitioner/de facto complainant had a right to file a protest petition and seek further investigation – Right of de facto complainant to have his protest petition considered on merits cannot be defeated on mere technicalities, Direction to treat Crl.M.P. as a protest petition – Effect of Amrutbhai’s case 2017-2-LW (Crl.) 185, scope.

**2018 (1) L.W. 203 (Crl.)**

**G.Subbaraman vs. State rep. by Inspector of Police, SPE, CBI, ACB, Chennai**

**Date of Judgment: 05.02.2018**

I.P.C., 120-B, 420, 477 A, Cheating, Purchase of foreign bills beyond limit

Prevention of Corruption Act (1988), 13(2) Evidence Act, Sections 61 to 65, Xerox copies, Secondary evidence, admitting of, objection as to, effect of

Bankers’ Books Evidence Act (1891), Section 4, Cheating, purchase of foreign bills beyond limit Cheating - purchase of foreign bills by chief manager beyond permissible limit Deception at inception, whether made out Foreign purchase bill not provided to A4 to A5 – Abuse of official position, by manager – purchased first cheque in favour of third party, got endorsed in favour of A4 and second cheque without obtaining permission or information to higher official.

Exercise of discretion by extending the facility of discounting foreign bills on a bonafide belief that they are genuine transaction – Effect – whether proper.

held: foreign bills purchase without permission, non reporting of return of the cheques with endorsement 'account closed' are violation of the Banking Rules Discount of foreign cheque, withdrawal of the amount immediately, non payment of the due arising out of dishonor of the cheque all hold A-4, A-5 guilty of charges Documents, photocopies of the entries in the Bankers Book, reports and communication between the parties admitting of, whether permissible.

To introduce secondary evidence, person who rely upon secondary evidence should first disclose whereabouts of the original and reason to introduce the secondary evidence – Section 65(e) does not apply.

Documents which fall under Section 65(f) should carry certificate as mandated under section 4 of the Banker's book evidence act.

Though the seal and signature of the manager on those photocopies mention it as 'certified copy', it does not fall within meaning of certified copy as referred under section 65(e) or 65(f) nor such certificate found on the exhibits satisfies the mandate of section 4 of the Banker's book evidence act.

Relying upon photocopies of documents not duly certified in the manner known to law, the prosecution has failed to prove charges beyond reasonable doubt.

**2018 (1) L.W. 274 (Crl.)**

**Christopher Sam Miller vs. The Inspector of Police, District Crime Branch, Nagarcoil**

**Date of Judgment: 21.11.2017**

Criminal Procedure Code, Section 2(h), 'investigation' Section 311-A, Specimen signature, ordering of, scope.

To ascertain whether petitioner signed document in question or not, investigation agency sought his signature, it was refused by petitioner, petition filed before the learned Judicial Magistrate invoking Section 311-A

held: Learned Judicial magistrate empowered to take specimen signature and thumb impression of petitioner who is cited as a witness – Proviso to Section 311-A effect of – whether a bar – Scope.

**2018 (1) L.W. 331 (Crl.)**

**Sivaprakasam vs. State rep. by the Inspector of Police All women Police Station Dharmapuri District**

**Date of Judgment: 18.12.2017**

I.P.C., Section 376, 417, 506 (ii)

Evidence of victim girl that accused took advantage of the consanguineous relationship between them and by promising that he would, marry her, had sex with her, cannot be easily rejected.

Evidence establishes commission of offence under Section 376.



**2018 (1) MLJ (CrI.) 593**

**Arokiyaraj vs. State, rep. by the Inspector of Police, Karaikal**

**Date of Judgment: 14.12.2017**

Culpable Homicide Not Amounting to Murder – Appreciation of evidence – Indian Penal Code, 1860, Section 304 (II) - Trial Court convicted Appellant/accused under Section 304(II) for stabbing victim in quarrel and causing his death, hence this appeal – Whether conviction of accused by Trial Court warrants interference – Held, minor discrepancies in narration of events by P. Ws.1 to 3 were insignificant – Absence of injury in hand of accused could not lead to inference that he had not used glass piece for stabbing deceased – Admission in statement of accused that he had fracas with deceased around that time lends assurance that accused was part and parcel of incident – Police had not prosecuted total stranger to incident – Explanation given by accused that deceased himself fell on showcase and deceased for no reason attacked him were false – Said false explanation was incriminating circumstance that could be considered against him – Failure to seize blood – stained clothes of P.W.1 could not enure to advantage of accused – Deceased had uncharitably abused accused by suggesting to him to be pimp for his wife and it had naturally infuriated accused resulting in attack – Conviction of Trial Court under Section 304(ii) and sentencing him to undergo only four years rigorous imprisonment warrants no interference – Considering age of accused and overall circumstances of case, sentence reduced – Appeal dismissed.

**2018 (1) MLJ (CrI.) 634**

**M.Thiruselvam**

**vs.**

**State, by the Deputy Superintendent of Police, Central Bureau of Investigation ACB, Chennai**

**Date of Judgment: 05.02.2018**

Return of Property – Non marking of Property – Code of Criminal Procedure, 1973, Section 452 – On trap proceedings conducted at RPF Police Station, tainted money recovered from accused and also, certain amount seized from briefcase of Petitioner kept in rest room – Trial against accused ended in acquittal and Trial court ordered return of tainted money to defacto Complainant – In respect of amount seized from Petitioner, Court directed to deposit same in account of Cancer Institute – Petition filed for return of money was dismissed, hence this revision – Whether amount to be returned to Petitioner – Held, Petitioner not arrayed as accused though in complaint his name was referred but he was examined as prosecution witness/PW-8 – Money recovered from Petitioner though sent to court, it was not marked in case – Petitioner in his deposition had explained about reason for possession of money – When prosecution had not exhibited money seized from Petitioner, it was no more case property – Trial court ought to have ordered to return property to person from whom it was seized – Trial court directed to return amount to Petitioner on getting adequate indemnity – Revision allowed.

**2018 (1) L.W (CrI.) 360**

**T.K.Srinivasan vs. The State rep. by Protection Officer and Another**

**Date of Judgment: 28.02.2018**

Protection of Women From Domestic Violence Act (2005) Section 12

Domestic Violence Act (2005) Section 2(a) 'Aggrieved Person', 2(f) domestic relationship', 2(s) 'shared household' Section 3, 12, domestic violence'

Quash of complaints under domestic violence acts – Petition by younger brother of father in law of complainant, daughter of younger brother of father in law.

Petitioners and 2<sup>nd</sup> respondent/complainant are not immediate family members – They have not lived under a 'shared household' thereby relationship between them do not come within "domestic relationship" complainant cannot be brought under "aggrieved person" – petitioners cannot be brought under "respondents" allegations cannot be brought with "domestic violence"

In order to wreck vengeance or as a counter blast 2<sup>nd</sup> respondent/complainant impleaded distant relatives – Proceedings quashed.

**2018 (1) L.W. (CrI.) 448**

**Renganathan and Others vs. State rep. by its, The Inspector of Police**

**Date of Judgment: 20.02.2018**

I.P.C.Section 201, 302, 511, murder of senior citizen

The Maintenance and Welfare of Parents and Senior Citizens Act (2007), Sections 21, 23, murder of senior citizen.

Murder of senior citizen – circumstantial evidence – Motive – deceased took shelter with A1, A2, (husband and wife) executed will in favour of A1 – Quarrel with A1 – Intention to murder – whether proved – cause of death – First accused, using pressure through legs, pressed private part of deceased, caused the death.

As per recital in the Will, property of the deceased would be enjoyed by him till his life time and after his life time, title to the property would pass on to first accused.

A1 who would be most interested person to cause death of deceased – participation of A1 cannot be disputed – participation of A2 wife is not established.  
Effect of Senior citizens act – Scope.

**2018 (1) MLJ (Crl.) 649**

**Krishna Kumar Sood vs. Srinath Rajam**

**Date of Judgment: 22.12.2017**

Trial – Forged Documents – Code of Criminal Procedure, 1973 (Code 1973), Section 195 (1)(b)(i), 340 and 482 – Indian Penal Code, 1860 (Code 1860), Sections 191,192,193,196,199,200,463,464,465, 469, 470 and 471 – Petitioner filed private complaint on Respondent/accused and Trial Court initiated Proceedings – Respondent filed petition to quash said proceedings, same allowed – Petitioner filed petition under Sections 195(1)(b)(i), 340 and 482 of Code 1973 to make enquiry alleging deceptive introduction of forged document/lease deed to get favourable order and direct officer of Court to prefer Complaint before competent authority for offences under Sections 191, 192, 193, 196, 199, 200, 463, 464, 465, 469, 470 and 471 of Code 1860 – Whether petition filed alleging deceptive introduction of forged document to get favourable order from Court, justified – Whether officer of Court to be directed to prefer Complaint before competent authority for offences under said provisions of Code 1860 – Held, comparison of documents along with connected files clears that there appears to be forgery – Words “without prior consent from lessor and shall be responsible to pay rent to lessor” is missing in said document – Petitioner wants relief and no need for him to produce forged document before Criminal Court – Accused who wants to wriggle out of situation, produced manipulated records – Discrepancy appears in document when compared – Accused committed forgery and produced said document – Section 195(1) (b)(ii) of Code 1973 states if offence committed with respect to document, same to be given in evidence in proceeding before any Court – Registrar General directed to make complaint before competent Court for offences under Sections 191, 192, 193, 196, 199, 200, 463, 464, 465, 469, 470 and 471 of Code 1860 as contemplated under Section 340 of Code 1973 – Petition allowed.

**2018 (1) MLJ (Crl.) 692**

**Lessac Research Lab (P) Ltd., vs. State rep.by Inspector of Police,**

**Date of Judgment: 21.12.2017**

Discharge Petition – Prima facie case – Criminal case registered against 1<sup>st</sup> Petitioner / 2<sup>nd</sup> accused / Company and its Director 2<sup>nd</sup> Petitioner / 3<sup>rd</sup> accused for manufacturing certain drugs without prior approval from Drug Controller General of India (DCGI) and without paying requisite fee – Final report filed for prosecuting Licensing Authority-cum-Controlling Authority / 1<sup>st</sup> accused along with Petitioners – Application filed by Petitioners for discharge from charges leveled against them was dismissed, hence this revision – Whether order of trial Court dismissing discharge petition was just and did not fall for consideration under revision – Held, 1<sup>st</sup> accused had granted license for manufacturing of Fixed Dose Combination (FDC) / new drugs, without following legal provision – License to manufacture drugs without approval of DCGI was illegal – Form furnished by manufacturers for obtaining license was not in accordance with stature – Subsequent communication to regularize manufacturer of FDC drugs would not exonerate criminal liability on Petitioners – They were knowingly manufacturing drug on strength of license issued by incompetent person and without paying requisite process fee – On date of registering FIR, pharmaceutical companies had not obtained approval from DCGI – There was material evidence indicating violation of Rule in force as well as deception at time of FIR and final report – Order of trial Court was just and did not fall for consideration under revision – Revision dismissed.

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