



# TAMIL NADU STATE JUDICIAL ACADEMY

## Professional Development Programme-II for Senior Civil Judges (Batch-I)

26.11.2022 and 27.11.2022

### Event Report

#### 26.11.2022

The Welcome Address was delivered by Mr. R.A.S. Anandaraj, Deputy Director, TNSJA Headquarters, Chennai. He welcomed the dignitaries and the participating Senior Civil Judges. He delivered the scope and object of the programme and also threw light on the importance of Professional Development Programme for the Senior Civil Judges. He reiterated the responsibilities of Senior Civil Judges and updating themselves in order to keep abreast with the evolving justice delivery system.



The First session was on the topic "**Appreciation of Evidence in Criminal Cases**" by Hon'ble Mr. Justice Sunder Mohan, Judge, High Court of Madras. His Lordship explained the concept of proof beyond reasonable doubt in Criminal cases and also explained the difference between evidence and proof in Criminal Procedure Code. His Lordship spoke about adverse inference and extra judicial confession. His Lordship

explained the direct evidence and culpable homicide not amounting to murder. His Lordship quoted the words of Antonin Scalia for decision making. His Lordship gave an overview Indian Penal Code. His Lordship also explained the term voluntarily in Sec 39 of IPC, injury in Sec 44 of IPC, voluntarily to cause hurt in Sec 321 and voluntarily causing grievous hurt by dangerous weapons or means in Sec 326. His Lordship also explained that the substantive evidence should not be given before the accused and it has not tested by Cross examination.

The next session was, Case Laws Presentation firstly, Mr. M. Vasantha Kumar, Sub Judge, Thiruvottiyur, presented the case *Vadivelu Thevar Vs. State* [AIR 1957 SC 614]. The resource person started with the definition of the term facts and said that facts not only include physical facts but also includes



mental conditions. He explained the classification of evidences. He also explained the definition of proved, disproved, not proved, may presume, shall presume, conclusive proof. He explained the case in respect of appreciation of evidence. He said that it is important for the court to come to the conclusion on the basis of existence of a fact by analyzing the matters before it on the degree of probability. While appreciating the evidence along with the matters attached to it, evidence can be divided into three categories namely, wholly reliable, wholly unreliable and neither wholly reliable nor wholly unreliable.

He elucidated that the hostile witness was coined to mean testimony of a witness turning to depose in favour of the opposite party. Once evidence is completed, the said testimony as a whole is meant for the court to assess and

appreciate a fact. Therefore, not only the specific part in which a witness has turned hostile but the circumstances under which it happened can also be considered, particularly in a situation where the chief examination was completed. The evidence of a hostile witness cannot be discarded as a whole, and relevant parts thereof which are admissible in law, can be used by the prosecution or the defence.

He reiterated that for ascertaining the truth by the court, the number of witnesses is not considered, but the quality of evidence is taken into a note. The resource person referred various case laws and clarified the participants doubts.



Case Laws Presentation was given by Mr. V. Venkatesaperumal, Principal Sub Judge, Kumbakonam. He said that the court in its discretion can allow a party to put any question to its own witness, which might be put in cross examination by the opposite party under Sec 154 of Indian Evidence Act. He also said that Leading questions, Question relating to his previous statements in writing, Questions which tend to test the veracity of the witness are the questions which can be asked to the witness. He explained that the statements recorded u/s 161 Cr.p.c can be used only for the purpose of contradiction and not for corroboration. He referred various case laws. The evidence of a witness cannot be rejected in toto merely because prosecution choose to treat him as hostile and cross-examined him. He explained the Deposition of Witness in Kannan @ Mannanai Kannan vs. State and the order of the Hon'ble Supreme Court. The resource person also clarified the participants doubts.



The next session was on the topic "Latitude and Longitude of Civil Appeal Cases" by Mr. N. Manokaran, Advocate, High Court of Madras. He said that the Appellate court has all the power of the High court and the trial court. He reiterated that aggrieved party, any person interested and the party to the proceeding are the people who can file an appeal. He referred various provision. He also said that the statutory court cannot pass the order on the base of the compromise. He also explained the difference of Cross objection and Cross appeal. Refund on settlement of disputes under Section 89 of CPC. He explained the admissibility and mode of proof and Sec 73 and 76 of Tamil Nadu Court fees and Suits valuation Act,1955. He reiterated that the Judgment should contain the reasons for any conclusion based on comparison of the thumb impression, to record a finding. He also spoke about the appeal against order of remand. The resource person has clarified the participants doubts.

**27.11.2022**



"Law of Divorce and Restitution of Conjugal Rights" by Mr. R. Srinivas, Advocate, High Court of Madras. He explained the provisions of Hindu Marriage Act, 1955, Indian Divorce Act, 1869, The Special Marriage Act, 1954. He explained the void marriages in Section 24 of the Special Marriage Act, 1954, Section

18, 19 & 21 of the Indian Divorce Act, 1869 and voidable marriages in Section 12 of Hindu Marriage Act, 1955 and Section 25 of the Special Marriage Act, 1954. He also explained where a decree for judicial separation has been passed, it shall no longer be obligatory for the petitioner to cohabit with the respondent. He said that petition for judicial separation may be presented to the district court either by the husband or the wife. A petition presented by either the husband or the wife, be dissolved by a decree of divorce on the ground that the other party. He also said that a petition for divorce may be presented to the district court either by the husband or the wife.

He reiterated that when either the husband or the wife has, without reasonable excuse, withdrawn from the society of the other, the aggrieved party may apply, by petition to the district court, for restitution of conjugal rights. Power to make orders as to custody of children in suit for separation. He also reiterated that in any suit for obtaining a judicial separation the court may from time to time, before making its decree, make such interim orders, and may make such provision in the decree, as it deems proper with respect to the custody, maintenance and education of the minor children, the marriage of whose parents is the subject of such suit, and may, if it think fit, direct proceedings to be taken for placing such children under the protection of the said Court.

He also said that for obtaining a dissolution of marriage or a decree of nullity of marriage instituted in, or removed to, a High Court, the Court may from time to time, before making its decree absolute or its decree (as the case may be), make such interim orders, and may make such provision in the decree absolute or decree, and in any such suit instituted in a District Court, the court may from time to time, before its decree is confirmed, make such interim orders, and may make such provision on such confirmation, as the High Court or District Court (as the

case may be) deems proper with respect to the custody, maintenance and education of the minor children, the marriage of whose parents is the subject of the suit, and may, if it think fit, direct proceedings to be taken for placing such children under the protection of the Court. He emphasized that the material facts should not be missed. The resource person also clarified participants doubt.



Specific Performance of Contracts by Mr. R. Abdul Mubeen, Advocate, High Court of Madras. He said that Specific Relief Act is procedural in nature. He spoke about the cause of action and starting point of limitation. He explained the amendment provisions of Specific Relief Act 2018. He also explained the effect of failure to perform at fixed time, in contract in which time is essential in Sec 55 of the Indian Contract Act, 1872. He spoke about the specific performance in respect of contracts and specific performance of contracts connected with trusts enforceable in Specific Relief Act. Time was of the essence of the term regarding payment of sale price. He emphasized that Article 54 of the Specific Relief Act which says that when the date is fixed for performance, the period of limitation is 3 years from such date, if no such date is fixed, the period of 3 years is to be computed from the date when the plaintiff has notice of refusal. Article 113 of Limitation Act says that any suit for which no period of limitation is provided, the period of limitation is 3 years. The resource person clarified the participants doubt.





The participants gave their feedback on the programme.

