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CIRCULATED

JUDICIAL DECISIONS

1979 - 2015

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Compiled by

***V. PADMANABHAN
CHIEF JUDICIAL MAGISTRATE
PUDUCHERRY.***

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1.	03.10.1979	S.L.P.(Crl.) No.953 of 1979 Thiru.V.R. Krishna Iyer.J. and Thiru. P.N. Shighal.J.	Court and Judges - Sentences in 304-A I.P.C Offences - Non-Compliance with the exhortations of the Hon'ble Supreme Court - action prayed for remarks of Subordinate Judicial Officers - submitted -Considered - Judgements of Hon'ble Supreme Court - Circulated - Reg.
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4.	10.12.1996	W.P.(C)No. 465 of 1986 Thiru. Kuldip Singh.J., and Thiru. B.L., Hansaria,J., and Thiru.S.B. Majmudar.J.,	Problem-employment - Children in Sivakasi - directions issued.
5.	18.12.1996	W.P.(Crl.) No. 539 of 1986 with W.P.(Crl.) No.592 of 1987, Thiru. Kuldip Singh.J., and Thiru. Dr. A.S Anand. J., A.I.R. 1997 SC 610	Constitution of India, Arts.21, 22(1) - Custodial deaths - Any form of torture or cruel, inhuman or degrading treatment - Fall within inhibition of Art. 21, whether it occurs during investigation, interrogation or otherwise -Supreme Court issued the requirement to be followed in all cases or arrest or detention till legal provisions are made in that behalf as preventive measures.
6.	12.07.1999	Crl. App.No.621 of 1999 Thiru. K.T. Thomas.J. and Thiru. M.B.Shah.J. 2000 MLJ 48	Criminal Procedure code (II of 1974), Sec.311 - Trial of case proceeding almost to the end- Two witnesses re summoned for cross - examination at

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			the instance of the prosecution - Again when case was closed and posted for hearing arguments, Public Prosecutor requesting court to re summon one prosecution witness and two others, due to oversight committed by the Public Prosecutor - Such oversight, held cannot be equated with 'lacuna' - Word ' lacuna' - Mean - witness is plenary, if it considers it necessary for a just decision.
7.	21.11.2000	Crl.O.P.No.21914 of 1998 and Crl.M.P.No.10620 of 1998 Thiru. M. Karpagavinayagam, J. 2001 MLJ (Crl) 312	Criminal Procedure code (II of 1974), Sections 161 and 311 - Petition to examine additional witnesses - Proposed witnesses originally accused of the crime - Statements were obtained from them as accused - Subsequent investigation veiling that they were only victims statements of such witnesses are statements under sec.161 - Omission of their names in the list of witnesses by the prosecution should not be a ground to curtail best evidence - Trial Court's order allowing petition to examine additional witnesses upheld.
8.	16.04.2002	Crl.A.No.535 to 541 of 2000 Justice. R.C. Lahiti, J R.O.C.No.1350 of 2002 , Dt:15.07.2002	Right to speedy trial P. Ramachandra rao Vs. State of Karnataka
9.	07.06.2002	Crl.R.C.No.187 of 2001 Thiru. M. Karpagavinayagam, J.	2002 (0) Crl.J 3820 Remission of sentence by government not court.
10.	01.10.2002	AIR 2003 SC 638 Thiru. M.B.Shah.J. and Thiru. D.M. Dharmadhikari.J.	disposal of properties. (Sunderbhai Ambalal Desai Vs. State of Gujarat)

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13.	11.11.2005	Suo Motu Contempt Petition No. 782 of 2005 Thiru. M. Karpagavinayagam.J. and Thiru. S.R. Singaravelu.J. R.O.C.No.4452/2005/RG/F1 , Dt: 07.12.2005	Injunction granted by Judge over ruling H.C. order - contempt action taken against judicial officer - directions issued.
14.	09.03.2006	CrI.M.P.(MD)No.6589 of 2005 in CrI. Appeal (MD) Sr.No.21359 of 2005 Thiru. P.D. Dinakaran,J. and Thiru. M.E.N. Patrudu.J.	The Unit heads of the Districts are hereby instructed to take immediate steps and give necessary directions to all the Criminal court to comply with Rule 184 of the Criminal Rules of Practice (Madras), strictly, without any deviation.
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17.	12.12.2006	C.R.P.No.2521 of 2000 Mrs.R. Banumathi.J. 2007 (2) L.W 1100	Amount in court deposit is not 'debt' within the meaning of section 214 of Indian Succession Act and therefore the succession certificate is not necessary for making the claim before the court to withdraw the amount awarded.
18.	13.04.2007	W.P.No.36807 of 2006 Thiru. A.P.Shah,C.J. and Thiru. D. Murugesan,J.	Directions regarding accused and victims involved in immoral trafficking. Victim to be sent to vigilance homes.
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20.	18.07.2007	CrI.O.P.(MD).No.6616 of 2007	Forwarding complaint u/s 156 (3) Cr.P.C - register to be maintained.

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22.	24.10.2007	W.P.(Crl.) No.296 of 2005 with W.P.(Crl.) No.18 of 2006 The Chief Justice of India, Thiru. R.V. Raveendran,J and Thiru. Dalveer Bhandari.J	Directions - under trial Prisoners and unsound mind - without bail for long period.
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33.	14.07.2008	W.P.CrI.No.68 of 2008 Thiru. B.N. Agrawal.J. and Thiru. G.S. Singhvi.J.	Complaint u/s 156 (3) Cr.P.C - forwarded Initiating disciplinary action against police officers for any inaction in instituting a case.
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	01.02.2013	R.O.C.No.4633-A/2012/F1 in P.Dis.No.14/2013	
82.	07.01.2013	M.P.Nos.2 of 2011 in W.P.Nos. 18872, 21126 of 2011 and M.P.No. 2 &3 of 2012 in W.P.No.8227, 8261 of 2012 and W.P.No.101196 of 2012	Charge sheet status quo order - land grabbing cases.
83.	23.01.2013	CrI. A.No. 1640 of 2010 Thiru. D.K. Jain.J. and Thiru.Jagdish singh khehar.J. S.C	NDPS cases - directions - the filing of the charge - sheet and supply of other documents must also be provided in electronic form. However, this direction must not be treated as a substitute for hard copies of the same which are indispensable for court proceedings.

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84.	04.02.2013	Crl. A.No.361 of 2012 Thiru. K.N. Basha.J., and Thiru. P. Devadass	Confessional Statement - its usage + Evidence Act sec 114 presumption.
85.	22.02.2013	Civil A.No.1794 of 2013 (Arising out of Special Leave Petition (Civil) No.4782 of 2007) Smt. Ranjana Prakash Desai.J. S.C	Family courts shall make efforts to settle matrimonial dispute through mediation. Criminal courts shall refer complaint u/s 498(A) IPC to mediation.
86.	22.02.2013	C.R.P.(PD) No.788 of 2013 Thiru. S. Nagamuthu.J.	Application of 037 C.P.C to all the lower courts in the state - Clarification.
	15.03.2013	R.O.C.No.1086-A/2013/F1 in P.Dis.No.24/2013	
87.	01.04.2013	Crl. M.P.No.1 of 2013 in Crl. A.No.866 of 2012 Thiru. K.N.Basha.J., and Thiru. P. Devadass.J.	A statement given by a witness u/s 164 Cr.P.C is like a previous statement given during investigation u/s 161 Cr.P.C., because it is not a 'substantive evidence'- such a statement of witness under section 164 Cr.P.C. cannot be used against the accused, when especially the deponent herself has turned hostile before the Trial Judge. However, such a statement can be used in favour of the accused.
	30.04.2013	R.O.C.No.2050-A/2013/F1 in P.Dis.No.62/2013	
88.	02.04.2013	Civil Appeal Nos. 4646 and 4647 of 2009 R.M.Lodha, J. Chelameswar and Thiru. Madan B.Lokur.J. S.C (Reshma Kumari case)	M.V Act - In the applications for compensation made under Section 166 of the 1988 Act in death cases where the age of the deceased is 15 years and above - In cases where the age of the deceased is upto 15 years, irrespective of the Section 166 or Section 163A under which the claim for compensation has been made- considering the claim applications made under section 166 in death cases where the age of the deceased is above 15 years - The claims Tribunals shall follow the steps and guidelines stated in para 19 of Sarla verma MANU SC 0606/2009: 2009 (6) SCC 121 for determination of compensation in cases of death - While making addition to income for future prospects, the Tribunals shall follow

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			paragraph 24 of the judgement in Sarla verma: 2009 (6) SCC 121 - Deduction for personal and living expenses is concerned, it is directed that the Tribunals shall ordinarily follow the Standards prescribed in paragraphs 30, 31, and 32 of the judgment in Sarla verma.
89.	10.04.2013	C.R.P.(PD) No.1273 of 2013 and M.P.No. 1 of 2013 Thiru. S. Nagamuthu.J.	C.P.C Sec 16, 17 City civil court jurisdiction.
90.	03.05.2013	CrI.A.No.689 of 2013 (Arising out of S.L.P.(CrI.) No.6287 of 2011) Thiru. T.S. Thakur.J.2013 (6) SCC 770 = AIR 2013 (0) SC 2454	302 IPC - 304(II) IPC Compensation u/s 357 Cr.P.C "May" "shall" Meaning.
	16.06.2014	R.O.C.No.2655-A/2014/F1 in P.Dis.No.76/2014	
91.	17.06.2013	C.A(MD) No.1456 of 2011 and M.P.(MD).No.2 of 2011 Thiru. N. Paul Vasanthkumar,J. and Thiru. P. Devadass. J.	A person involved in a criminal case can be suspended and he has no right to demand revocation of suspension till he is exonerated in the criminal case.
92.	05.07.2013	C.M.S.A(MD) Sr.No.10267 of 2013 Thiru. G.M. Akbar ali	C.A - Struck off, restoration - C.R.P - Delay.
	17.10.2013	R.O.C.No.5563-A/2013/F1	
93.	29.07.2013	C.P.(MD) No.416 of 2011 and M.P.(MD) No. 1 of 2011 Thiru. N.Paul Vasanthakumar.J. and Thiru. P. Devadass.J.	Contempt action - handcuffing accused - judicial officers are bound to take cognizance.
	03.09.2013	R.O.C.No.4281-A/2013/F1 in P.Dis.No.107/2013	
94.	20.01.2014	CrI. A.No.259 of 2009 Smt. Ranjana Prakash Desai.J.	Circumstantial evidence + Evidence Act Sections 101, 106, 113(a) (b) applicability.

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95.	31.01.2014	T&P SC (MD) No.68/2014	Criminal Appeal No.259/2009 on the file of the Hon' ble Supreme Court of India, New Delhi Certified copy of the Judgment dt.20.1.2014 - Directed to be communicated - Regarding. If the viscera report is not received, the concerned court must ask for explanation and must summon the concerned officer of the FSL to give an explanation as to why the viscera report is not forwarded to the investigating agency / Court. The Criminal court must ensure that it is brought on record".
	20.01.2014	Criminal Appeal No.259/2009. Supreme Court of India. Smt. Ranjana Prakash Desai. J.	
96.	07.03.2014	CrI.O.P.No.15197 of 2013 and M.P.No.1 of 2013 Thiru. P. Devadass.J.	Cr.P.C 173 Negative Final report filed - next stage.
	04.04.2014	R.O.C.No.1445-A/2014/F1 in P.Dis.No.46/2014	
97.	02.07.2014	CrI. Appeal No.1277 of 2014 (Special Leave petition (CrI.)No.9127 of 2013)	Arrest - Reasons to be given by police + J.M. Should record reason - No automatic arrest.
	05.08.2014	R.O.C.No.2383/2014/F1 in P.Dis.No.88/2014	
98.	24.09.2014	CrI.M.P.No. 1 of 2014 in CrI.A.386/2014 Thiru. S Rajeswaran.J. and Thiru. P.N. Prakash.J.	Witnesses can be examined in the absence of defence counsel at the discretion of the court
	11.12.2014	R.O.C.No.5069-A/2014/F1 in P.Dis.No.106/2014	
99.	17.12.2014	CrI.O.P.No.29399 of 2014 and M.P.No.1 of 2014 Thiru. S. Nagamuthu.J.	Nomination of one J.M. to extend remand of all prisoners order by C.J.M - illegal.
	11.02.2015	R.O.C.No.346-A/2015/F1	
100.	19.12.2014	CrI.O.P.No.20008 of 2013 and M.P.No.1 of 2013 Thiru. S. Nagamuthu.J.	Cr.P.C 176 - 1 A scope and Procedures.
	11.03.2015	R.O.C.No.1220-A/2015/F1	
101.	23.12.2014	CrI.O.P.(MD)No.23509 of 2014	Accused involved in 6 cases furnishing surety. Court can accept very same

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		Thiru. S. Vaidyanathan.J.	sureties for all cases.
	23.02.2015	R.O.C.No.849-A/2015/F1	
102.	21.01.2015	Crl.A.No.554 of 2012 Thiru. Dipak Misra.J. S.C.	It is not at all appreciable to call witnesses for cross examination after a long span of time P.C Act conviction - witness turned Hostile during cross.
	11.02.2015	R.O.C.No.451-A/2015/F1	
103.	02.02.2015	Crl.O.P.No.2381 of 2015 & M.P.Nos.1 and 2 of 2015 Ms. R. Mala.J.	Police custody C.R.P.76 affidavit format to be filed.
	11.03.2015	R.O.C.No.874-A/2015/F1	
104.	19.03.2015	Crl.A.No.781 of 2012 Thiru. Dipak Misra.J. S.C.	Sec.156(3) Cr.P.C affidavit to be filed in support of complaint - SARFAESI Act - Complaint against bank officials.
	06.05.2015	R.O.C.No.2456-A/2015/F1	
105.	18.06.2015	Crl.R.C.(MD)No.186 of 2015 Thiru. S. Nagamuthu.	When nonailable warrants can be issued while taking cognizance of final report.
	31.07.2015	R.O.C.No.4094-A/2015/F1	
106	18.08.2015	Crl. A. (MD) No.234 of 2011. Thiru S. Nagamuthu and Thiru V.S. Ravi.	Defects noticed in the matter of framing of charges - Judges and Magistrates, Presiding over the Criminal Courts, shall bestow their best attention in the matter of framing of charges as framing of charges is not a ministerial job but a very serious judicial function.
	28.09.2015	Roc.No.2553-A/2015/F/MB	
107	01.07.2015	Second Appeal (MD) No.357 of 2009. Thiru P.R. Shivakumar.	Suit Governed under Art.64 or Art.65 - Starting point for limitation - C.P.C. Order 23, rule 2 - Counting of limitation.
	01.10.2015	Roc.No.2350-A/2015/F/MB	
108	21.01.2015	Criminal Appeal No.554 of 2012 (Supreme Court of India). Thiru Dipak Misra.J.	It is not all appreciable to call a witness for cross - examination after a long span of time. It is imperative if the examination - in -Chief is over, the cross - examination should be

Sl. No	Judgment Date	Case No.	Subject
	18.12.2015	Roc.No.7808-A/2015/F1/Regr (Judl)	completed on the same day. If the examination of a witness continues till late hours the trial can be adjourned to the next day for cross – examination. It is inconceivable in law that the cross – examination should be deferred for a long time.
109	25.09.2015	CrI.R.C.Nos.993 and 994 of 2015. Thiru S. Vaidyanathan.	i) No Advocate has right to stall the court proceedings on the ground that advocates have decided to strike or to boycott the courts or even boycott any particular Court. With the strike by the lawyers the process of court intended to secure justice is obstructed which is unwarranted under the provisions of the Advocates Act. ii) No Advocate shall be permitted to represent the matter without robes (dress-code) on boycott day; iii) The Courts below shall record the non-appearance of the Advocates due to boycott in the listed case proceedings and proceed with the matters on merits; iv) After recording such non-appearance of the Advocates, the Courts below shall report the same to the Bar Council of India for appropriate action and it would facilitate the litigants to pursue the matter with the Bar Council of India.
	23.12.2015	Roc.No.7652-A/2015/F2. P.Dis.No.225/2015.	
110	26.10.2015	Reference Case (MD) No. 1 / 2015. Thiru S. Nagamuthu and Thiru V.S. Ravi.	1) Whether the word “address” referred in Paragraph No.31 (16) in the judgment of the Honourable Supreme Court is dealing with the Judicial power of the Sessions Judge or the administrative action of the Sessions Judge? 2) If it is held to be a Judicial Power, any address made by the Sessions Judge is disobeyed what would be the enforcement mechanism for the

Sl. No	Judgment Date	Case No.	Subject
	23.12.2015	Roc.No.3160 - A/2015/F/(MB)	<p>Principal Sessions Judge to enforce the direction / Address?</p> <p>3) How the Sessions Judge can act in compliance with the directions of the Honourable Supreme Court without deviating the other pronouncement of the Honourable Supreme Court in the case of peoples Union for Civil Liberties Vs. State of Maharashtra, reported in 2015 Cr.L.J. 610 in respect of non - interference in the investigation and without deviating provision of the Criminal Procedure Code in a Harmonious manner?</p> <p>4) Whether the petition purported to be filed under Section 193 Cr.P.C. can be made to the Sessions Judge, who has no right to take direct cognizance of any offence?</p> <p>5) Whether the Sessions Judge while addressing the grievances as per the dictum of the Judgement of the Honourable Supreme Court can pass the order for transfer the investigation of I.P.S. Officer with regard to the appointment of officers as prayed for in the petition.</p>

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