

# TAMIL NADU STATE JUDICIAL ACADEMY

**\*\* VOL. XIX — PART 08 — AUGUST 2024\*\***

## IMPORTANT CASE LAWS



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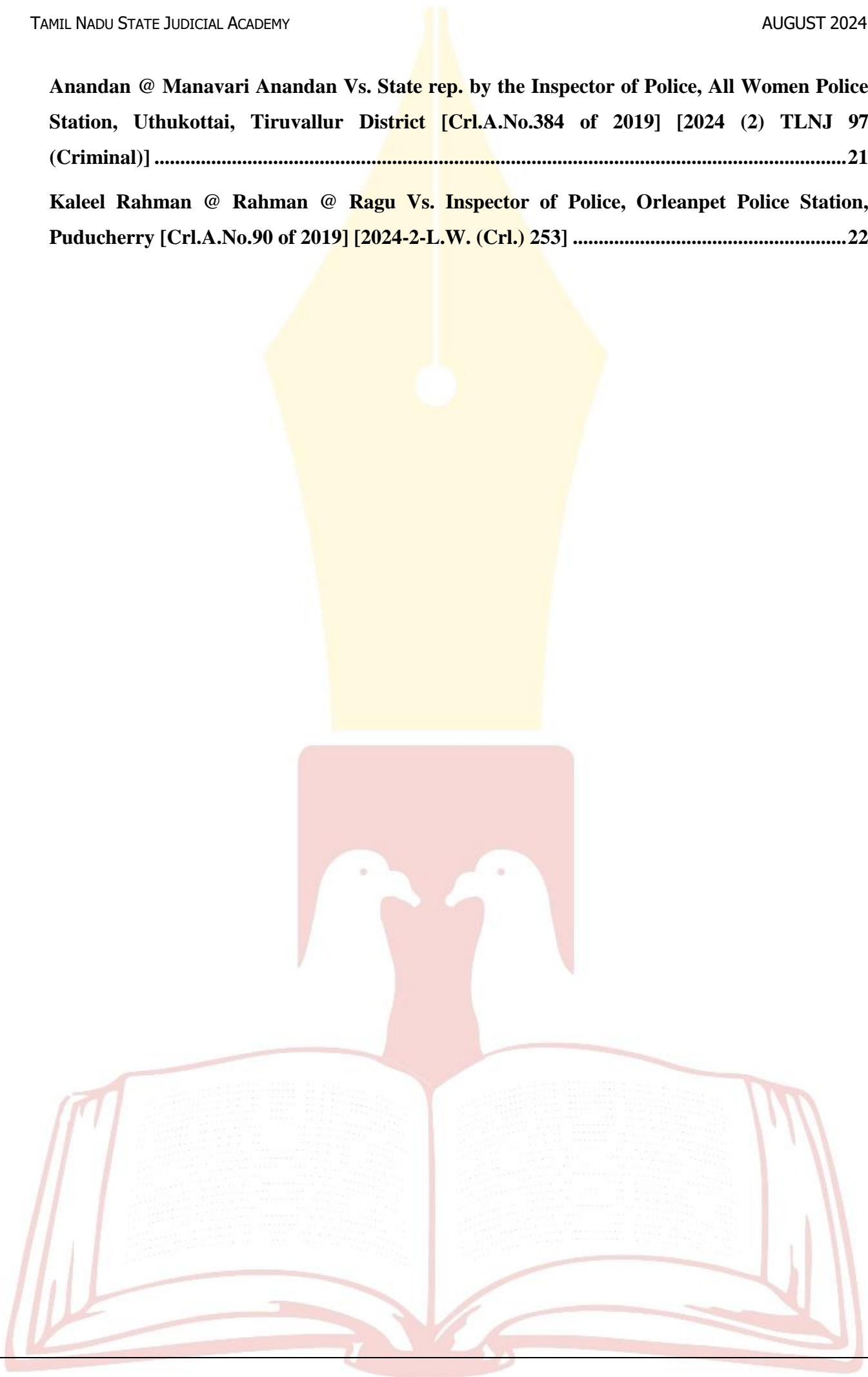
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**SUPREME COURT – CIVIL CASES**

**P. Ravindranath & Anr. Vs. Sasikala & Ors. [Special Leave to Appeal (C)**

**No(s). 2246/2017]**

**Date of Judgment: 15.07.2024**

***Supreme Court Reiterates Mandatory Requirement Of Direct And Specific Pleadings In Suit For Specific Performance***

The present Civil Appeal has been preferred by the Defendants/ Appellants challenging the order of the Hon'ble High Court which affirmed the order of the Trial Court in decreeing the suit for specific performance filed by the Plaintiff/ Respondents.

The facts of the case is that the Plaintiffs (vendees) had entered into an Sale agreement on May 24, 1981, with the Defendants (vendors) for the sale of a property. The total sale consideration was Rs. 29,000/- with an advance of Rs. 12,000/- paid at the time of the agreement. The balance was to be paid at the time of registration of the sale deed. The sale was necessitated due to the vendors' needs for funds. The agreement stipulated a three-month period for completion, but this was subject to government restrictions on the registration of similar revenue sites. After the three-month period expired without the plaintiffs coming forward to execute the sale deed, the defendants on September 23, 1981, had extended the period by another week and indicated that failure to respond would lead to the sale of the site to another party. Following another two months, a legal notice was issued on Nov 18<sup>th</sup>, 1981 stating that the plaintiffs had failed to pay the balance amount of Rs. 17,000/- resulting in the forfeiture of the earnest money and termination of the agreement. In response, the plaintiffs claimed that they had paid an additional Rs. 2,000/- making the total advance Rs. 14,000/-. They asserted that the agreement would remain valid until the government lifted the restrictions on registration. The defendants replied on December 11, 1981, denying the additional

payment and reiterating the urgency of their need for money. The plaintiffs did not reply to this communication. Subsequently, the Defendants had sold parts of the disputed property to other parties on April 22, 1983, and June 22, 1983. Aggrieved by it, the plaintiffs filed a suit for specific performance of the agreement and a permanent injunction against further alienation of the property on 29th July 1983. In the said suit, the Trial Court decreed the suit for specific performance and directed the defendants to execute the sale deed in favour of the plaintiffs after receiving the balance consideration within three months. However, it denied the relief of permanent injunction as the plaintiffs were not in possession of the property. Thereafter, the defendants had filed an Appeal before the Hon'ble High Court which eventually was dismissed.

The Court observed that the plaintiffs had failed to provide specific pleadings or evidence about the alleged restriction imposed by the State on the registration of sale deeds. Further, the plaintiffs did not demonstrate any effort to tender the balance amount to the defendants. Despite claims of a ban, there was no evidence provided that such a ban existed or was applicable to the land in question. Further, the Court observed that plaintiffs did not respond to multiple communications from the defendants requesting payment of the balance sale consideration and notifying the forfeiture of the advance amount. The plaintiffs also failed to show readiness and willingness before filing the suit, as they did not tender the balance consideration or provide a draft sale deed. Only bald and vague averments have been made to show that the plaintiffs were ready and willing to perform their part. No specific details were mentioned, as such, the suit was hit by Section 16(c) of the Specific Relief Act, 1963. Moreover, the Court stated that relief of specific performance is a discretionary relief and as such, courts need to be extra careful and cautious in dealing with the pleadings and the evidence led by the plaintiffs.

The Court, while allowing the Appeal, held that the plaintiff in a suit for specific performance of a contract must provide direct, specific, and accurate pleadings that

he is willing and ready to perform his obligations in the contract and such pleadings must be proved with evidence. Further, since the Plaintiffs had paid Rs. 12,000/- as advance money on 24.05.1981 and that being an admitted position, the Court felt that they had to be suitably compensated for the same. Moreover, since 43 years have been passed since the date of Agreement to sell and the value of the property was presently worth Rs. 4 Crores, the Court directed the Appellant to compensate the Respondents by paying an amount of 24 lakhs in lieu of advance and Rs. 6 lakhs as costs of Litigation.

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**Usha Devi & Ors. Vs. Ram Kumar Singh & Ors. [Civil Appeal No. 8446 of 2024]**

**Date of Judgment: 05.08.2024**

The Civil Appeal has been filed by the appellants challenging the High Court's decision to uphold the decree for specific performance of a contract. The Facts of the Case is that the appellant's father, Bihari Lal (deceased), entered into an agreement to sell a property to the respondents on 22.07.1983. The sale was for Rs. 70,000, of which Rs. 1,000 was paid as an advance. The remaining balance of Rs. 69,000 was paid by the respondents on 20.09.1985, and they were put in possession of the property. A fresh agreement was executed on 17.12.1989, adjusting the price and confirming the sale for Rs. 81,000. The sale agreement was to be executed within one month but was not done, the agreement also incorporated a clause stating that the said agreement would be valid for five years, leading to the respondents filing a suit for specific performance in September 1993. The appellants contended that the agreement was forged and that the suit was barred by limitation, as the period for specific performance under the Limitation Act, 1963, is three years from the date fixed for performance, which expired in January 1993. The major issue decided by the court was whether the suit was barred by limitation or not. The Court observed that the limitation period under Article 54 of the Limitation Act would begin from January 16, 1990, the date fixed for performance in the agreement. The Court clarified that the validity of the agreement for five years was irrelevant to the limitation period for filing a suit. The validity clause does not alter the fixed date for performance but merely indicates that the agreement itself remains operational for five years. As the suit was filed beyond three years, it was barred by limitation. The Court allowed the appeal, set aside the High Court's decision, and dismissed the

suit. However, it directed the appellants to return the Rs. 80,000 paid by the respondents, along with 12% interest per annum, within three months.

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## SUPREME COURT - CRIMINAL CASES

### Girish Gandhi Vs. The State of Uttar Pradesh & Ors. [Writ Petition (Criminal) NO. 149 of 2024]

**Date of Judgment: 22.08.2024**

The Writ Petition has been filed by the petitioner challenging the High Court's decision to require separate sureties for multiple bail orders across different states. The Facts of the Case involve the petitioner, Girish Gandhi, who faced multiple FIRs in various states, alleging financial misconduct by the company he was associated with. Despite being granted bail in 13 cases, the petitioner struggled to furnish separate sureties for each case, citing financial and personal constraints. The petitioner contended that he was the primary breadwinner for his family and was employed as the In-charge for Accounts at the Company, though this is contested by the prosecution, with some FIRs alleging he was a Director. He also asserted that his wife, a physically handicapped teacher with a modest income alone supports their son, and his elderly mother whom he cares for, make him unable to provide separate sureties for the remaining 11 bail orders and requested that the sureties already given in two cases be applied to the other 11. On the other hand, the respondents submitted that each FIR required its surety to ensure the petitioner's compliance with the law. The Court observed that the fundamental right under Article 21 of the Constitution must be balanced with the need to ensure the presence of the accused during trial. It noted that imposing excessive or impossible conditions for bail effectively nullifies the right to bail. The Court referred to precedents such as *Satender Kumar Antil vs. Central Bureau of Investigation & Anr. (2022) 10 SCC 51* and *Hani Nishad vs. State of Uttar Pradesh, SLP (Criminal) Nos. 8914-8915 of 2018* to point out that the conditions of bail should not be impossible to fulfill. The Court, while allowing

the petition, directed that in each state where FIRs were pending, the petitioner would furnish a single personal bond of Rs.50,000/- and two sureties of Rs. 30,000 each, which would hold good for all the FIRs within that state, and permitted the same set of sureties to stand as surety in all the States.

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**Mahendra Kumar Sonker Vs. The State of Madhya Pradesh [Criminal  
Appeal No. 520 of 2012]**

**Date of Judgment: 12.08.2024**

The Criminal Appeal has been filed by the appellant challenging the High Court's decision to uphold his conviction under Section 353 of the Indian Penal Code (IPC). The Facts of the Case is that the appellant was charged along with his wife, under various sections of the IPC and the Prevention of Corruption Act, 1988, based on a complaint preferred by the complainant (PW-1) alleging that the appellant demanded a bribe. A trap was set, and during the proceedings, the appellant allegedly resisted arrest, leading to his conviction under Section 353 IPC for assault or criminal force to deter a public servant from discharge of duty. The Special Judge convicted the appellant under Section 353 IPC, sentencing him to six months of simple imprisonment and a fine. The High Court confirmed the conviction on appeal. The appellant contended that the conviction was unjustified as the evidence did not meet the necessary criteria for establishing an offense under Section 353 IPC, that the resistance during the arrest was not an assault or use of criminal force, and there was no intent to prevent the officers from performing their duty. On the other hand, the respondent submitted that no case for interference with the concurrent conviction was made out. The Court observed that Section 353 IPC requires the intentional use of force or assault to deter a public servant from discharging their duty. However, the Court found that the prosecution did not prove the appellant assaulted or used criminal force against the trap party. The Court observed that while there was jostling and pushing when the appellant tried to avoid arrest, this did not amount to assault or criminal force as defined by law. There was no evidence that the appellant used a hard or blunt object, despite the doctor's (PW-13) testimony that injuries on various

individuals could have been caused by such objects. The Court concluded that the appellant's actions were not intended to prevent the trap party from performing their duties. The Court highlighted the necessity of following procedural requirements under Section 195(1)(a)(i) of the Criminal Procedure Code (CrPC) for taking cognizance under Section 186, which concerns obstructing public servants in their duties. The Court's ruling thus found no evidence satisfying the criteria for charges under Section 353 or Section 186. The Court, while allowing the appeal, set aside the conviction under Section 353 IPC, holding that the elements of the offense were not satisfied by the appellant's actions. The Court acquitted the appellant, discharged his bail bonds, and concluded that the case did not justify a conviction under the relevant section.

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**Gautam Kumar Das Vs. Nct of Delhi and Others [Arising out of  
SLP(Criminal) No. 5171 of 2024]**

**Date of Judgment: 20.08.2024**

The Criminal Appeal has been filed by the appellant challenging the High Court's decision to direct the parties to approach the family court for custody of the appellant's minor daughter. The Facts of the Case is that the appellant married Subrata Das in 2012, and they had two children. Tragically, the appellant's wife passed away in 2021, due to COVID-19, and shortly there after, the appellant also lost his father. During this time, the appellant temporarily handed over the custody of his children to his sister-in-law (respondent No. 5). Later, the custody of the son was returned to the appellant, but the custody of the daughter remained with the respondent. The appellant remarried and sought the custody of his daughter, which was refused by the respondent, leading the appellant to file a case under Section 10 of the Guardians and Wards Act, 1890, and subsequently, a writ petition before the High Court seeking custody of his daughter. The High Court disposed of the writ petition, directing the parties to approach the family court. The appellant contended that being the natural guardian, he is entitled to the custody of his minor daughter, and the refusal by the respondents is unlawful. The appellant further submitted that the High Court's direction was erroneous as it ignored his rights as the natural guardian and the welfare of the child. The Court observed that the welfare of the child is of paramount importance and that the appellant, as the natural guardian, has the right to the custody of his daughter. The Court also noted that the temporary custody was given to the respondents due to the unfortunate circumstances but now, the appellant is fully capable of taking care of his daughter. The Court rejected the respondents' allegations against the appellant as an afterthought

to retain custody. The Court while allowing the appeal, set aside the High Court's decision, and directed the respondents to hand over the custody of the minor daughter to the appellant forthwith. The Court also permitted the respondents to visit the child once in a week.

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**Delhi Race Club (1940) Ltd. & Ors. Vs. The State of Uttar Pradesh & Anr.**  
**[Criminal Appeal Nos. 3114 of 2024]**

**Date of Judgment: 23.08.2024**

The Criminal Appeal has been filed by the appellants challenging the High Court's decision to dismiss their application for quashing the summoning order under Section 406 of the IPC. The Facts of the Case is that the respondent, a supplier of horse feed, alleged that the appellants failed to pay an outstanding amount of Rs. 9,11,434/- for goods supplied. The complaint was filed under Sections 406, 420, and 120B of the IPC. The Magistrate, after conducting an inquiry under Section 202 of the CrPC, issued a process only under Section 406 and the appellants sought to quash this order in the High Court, which was rejected. The Court observed that summoning an accused in a criminal case is a serious matter and should not be done mechanically. The Court highlighted that the essential ingredients of criminal breach of trust, including entrustment of property and dishonest misappropriation, were not present in this case. The Court further noted that the mere non-payment of dues does not amount to criminal breach of trust or cheating. The Court while allowing the appeal, set aside the High Court's decision and quashed the summoning order, holding that the case at hand was purely a civil dispute and did not warrant criminal prosecution under Section 406 of the IPC.

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**Juvenile in Conflict with Law Vs. The State of Rajasthan & Anr. [Special Leave Petition (Crl.) No.9566/2024]**

**Date of Judgment: 14.08.2024**

***Juvenile Cannot Be Denied Bail Without Recording Finding That Proviso To S. 12(1) Juvenile Justice Act Is Applicable***

The criminal appeal has been preferred by a juvenile in conflict with the law through his guardian, his father. The appellant has been charged under Sections 354 and 506 of the IPC, as well as Sections 9 and 10 of the Protection of Children from Sexual Offences (POCSO) Act, 2012. The appellant was taken into custody and placed in a juvenile care home. A charge sheet was also filed. Two days before the filing of the charge sheet, an application was filed by the appellant under Section 12(1) of the Juvenile Justice (Care and Protection of Children) Act, 2015. However, this application was rejected. Thereafter, second application for bail was also rejected by the Juvenile Justice Board. An appeal against the said order was dismissed by the learned Special Judge under the POCSO Act, and ultimately, by the impugned order, the High Court also dismissed the revision petition filed by the appellant, thereby denying bail. Throughout this entire process, the appellant had completed one year in custody.

The court observed that Section 12(1) of the Juvenile Justice (JJ) Act mandates that a juvenile in conflict with the law should be released on bail, with or without surety. However, as per the proviso to this sub section (1) of section 12, such a person shall not be released if there are reasonable grounds to believe that the release would result in the juvenile associating with known criminals, exposing the juvenile to moral, physical, or psychological danger, or defeating the ends of justice. Further, the Court observed that based on the phraseology used in sub-section (1) of Section 12, a juvenile in conflict with the law must be released on bail, with or without surety, or be placed under the supervision of a probation officer or under the care of any fit person, unless the proviso is applicable.



The Court also relied on the Psychological Assessment Report of the juvenile. The report indicates that the juvenile does not belong to the high-risk category. Additionally, under the column titled "worry list of child," it was mentioned that there was 'no worry'. The report was signed by a qualified clinical psychologist.

Therefore, the Court, while granting bail to the Appellant, held that the Juvenile Justice Board (JJB), Trial court, and the Hon'ble High Court had failed to record a specific finding that the proviso to sub-Section (1) of Section 12 of Juvenile Justice Act, 2015 was applicable to the facts of the case.

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**Madhab Chandra Pradhan & Ors. Vs. State of Odisha [Special Leave  
Petition (Crl.) No. 10082 of 2024]**

**Date of Judgment: 05.08.2024**

***Child Victim Of Traumatic Sexual Assault Must Not Be Repeatedly Called  
To Testify In Court***

The Petition has been filed by the Appellant/Accused challenging the order of the Hon'ble High Court which affirmed the order of the Special court under POCSO Act in rejecting the application filed by the Petitioner under Section 311 of Cr.P.C, which was filed for recalling the victim/PW-1 for re-examination as witness. The petitioners were facing trial before the Special Court under POCSO Act.

The Court observed that, once the defence was granted ample opportunities to cross-examine the victim, recalling the victim for further cross-examination would defeat the purpose of the POCSO Act. The Court's observation was based on the textual interpretation of Section 33 (5) of the POCSO Act, which casts a duty upon the Special Court to ensure that a child is not repeatedly called to give his/her testimony before the court. It is to ensure that the child who has suffered a traumatic experience of sexual assault is not called time and again to testify about the same incident. Also, a clarification was made by the Court that although Section 33(5) doesn't create an absolute bar to recall the victim for re-examination as a witness, each case must be looked at in the context of its facts and circumstances.

The Court, while dismissing the Petition, relied on the case of *State (NCT of Delhi) v. Shiv Kumar Yadav [(2016) 2 SCC 402]*, where the Court succinctly summed up the principles that would guide the exercise of a Court's power under Section 311 of the Cr.P.C.

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**K. Ravi Vs. The State of Tamil Nadu & Anr. [Criminal Appeal No(s).  
3598/2024]**

**Date of Judgment: 29.08.2024**

***Section 216 Cr.P.C does not grant the accused the right to file a fresh discharge application after charges have been framed, particularly when a discharge application under Section 227 of the Cr.P.C has already been dismissed***

The Criminal Appeal has been filed by the Appellant/Defacto Complainant challenging the order of the Hon'ble High Court, which had set aside the order passed by the Trial Court discharging the Accused No. 2/Respondent No. 2 from all the charges levelled against him and directed further investigation under Section 173(8) of the Cr.P.C.

The facts of the case is that Respondent No. 2/Accused No. 2 had filed an application before the Sessions Court seeking his discharge from the case under Section 227 of the Cr.P.C. This application was dismissed by the Sessions Court. Thereafter, the said order was challenged by Respondent No. 2 before the High Court through a Revision Application. This Revision Application was dismissed by the High Court, which observed that there were sufficient incriminating materials available against Respondent No. 2 to frame the charge, and that the Sessions Court had rightly dismissed the application filed by Respondent No. 2 under Section 227 of the Cr.P.C. Subsequently, the Sessions Court framed charges against all the accused. The Respondent No. 2 (A-2) was charged with offenses under Sections 302 read with 149, 147, 148, and 324 of the IPC. Thereafter, the Respondent No. 2 again filed an application under Section 216 of the Cr.P.C. seeking alteration of the charge on the ground that he was not present at the scene of the offense. This application was dismissed by the Sessions Court. Once again, the Respondent No. 2 preferred a Revision Application before the High Court under Sections 397 and 401 of the Cr.P.C. The High Court ultimately set aside the order of the Sessions Court, discharging Respondent No. 2/Accused No. 2 from the charges leveled against him.

The Court observed that the order dismissing the application seeking modification of the charge was an interlocutory order. In view of the express bar contained in Sub-section (2) of Section 397 of the Cr.P.C., the Revision Application before the High Court was not maintainable. Further, the Court, by relying on the case of *Amit Kapoor vs. Ramesh Chander and another* [(2012) 9 SCC 460], observed that the scope of interference and exercise of jurisdiction under Section 397 of the Cr.P.C. (revisional jurisdiction) is extremely limited. Additionally, the Court stated that the Courts exercising revisional jurisdiction under Section 397 should be extremely circumspect in interfering with an order framing the charge and should not have interfered with the order passed by the Trial Court dismissing the application for modification of the charge under Section 216 of the Cr.P.C., which would otherwise fall under the category of an interlocutory order.

The Court, while allowing the Appeal, held that Section 216 of the Cr.P.C. does not give any right to the accused to file a fresh application seeking discharge after the charge has been framed by the court, particularly when the application seeking discharge under Section 227 has already been dismissed.

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## HIGH COURT - CIVIL CASES

### V.S.Mohan Vs. Sarath Naseera & Ors. [C.R.P.(PD).No.782 of 2023] [2024-4-L.W. 267]

**Date of Judgment: 30.07.2024**

The Civil Revision Petition was filed by the tenant/Mohan under Art 227 of the Constitution of India against the order passed by the Rent Controller dismissing the M.P to permit the petitioner/tenant to reopen and cross examine P.W.1.

A petition was filed by the landlord for fixation of fair rent in R.C.O.P. No 1812 of 2008 and order was passed in the said petition fixing fair rent. An appeal was preferred and dismissed. Despite the fixation of fair rent, the tenant defaulted in payment of rent and the landlord initiated R.L.T.O.P. No 497 of 2022 seeking for eviction. The tenant pleaded to dismiss the petition on the ground that the said section cannot be invoked by the landlord since he was the one not willing to enter into an agreement. Subsequently, M.P was filed by the tenant to reopen the landlord's side evidence and permit the tenant to cross examine the landlord. The Rent Controller dismissed the petition, stating that there are no disputed facts involved in the matter. Aggrieved by the order, the present Civil revision petition was filed by the tenant.

The Court observed that, it was admitted by both the sides that there was no tenancy agreement in terms of section 4(1). Further the court observed that, there was no inherent right for cross examination available under the new Act and the only dispute in the present case was if there was a written agreement in terms of sec 4(1) or not. The Court held that as under Sec 36(2), it is the discretion of the Rent controller to decide as to whether respondent entitled to cross examination on a case-by-case basis, and it was not susceptible to be interfered by way of Art 227 of the Constitution of India unless the discretion has been exercised in a capricious or arbitrary manner and thus dismissed the revision petition.

**C. Abdul Basith & Ors. Vs. M. Diviya Dharshana @ Priya & Ors.**  
**[C.R.P.No.3529 of 2023] [2024 (4) L.W. 279]**

**Date of Judgment: 23.07.2024**

The Civil revision petition was filed under Art 227 of the Constitution of India against the order passed by the trial court dismissing the prayer to seek return of document.

The facts of the case were, Priya and Malathi, the first and second respondents, challenged the validity of the cancellation of a settlement deed executed by their grandmother, Nithyavathi, on December 8, 2003. The plaintiffs, who are the granddaughter and daughter of Nithyavathi, claimed that Nithyavathi had earlier settled the property in favor of Diviya Dharshana through a settlement deed dated June 17, 2002. Nithyavathi later cancelled this deed and subsequently transferred the property to her other daughter, Sheela, who was the second defendant. In the meantime pending appeal, property was sold to the revision petitioner, who filed application for return of parent documents. The trial court dismissed the petition on two grounds: the petitioners, being third parties, did not have the right to compel the return of the document, and they failed to show authorization from Nithyavathi. Aggrieved by the order, the present revision petition was filed.

The court observed that under Order XIII Rule 9 of the CPC and Section 55 of the Transfer of Property Act, the civil revision petitioners, who had purchased the property from Nithyavathi, were entitled to the title document. The court further ruled that the petitioners, having succeeded Nithyavathi's interest in the property, had the right to receive the original sale deed. Therefore, the Court allowed the petition and set aside the dismissal of the application by the trial court, and instructed the trial court to return the document after ensuring it was substituted with a certified copy and an indemnity undertaking was executed.

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**HIGH COURT – CRIMINAL CASES****Preetha Vs. The Inspector of Police, Chennai & Anr.[ CrI.O.P.No.15166 of 2024] [2024 (2) TLNJ 145 (Criminal)]****Date of Judgment: 07.08.2024**

The Criminal Original Petition filed under Section 482 of the Criminal Procedure Code sought to quash the complaint pending before the Sessions Judge. The petitioner argued that the charges under Section 302 of the Indian Penal Code (IPC) were erroneous as the petitioner acted in private defense, as provided under Section 97 IPC, to protect her daughter from her husband who was in a drunken state and attempted to ravish their 21-year-old daughter. The daughter's statement, photographs of the deceased, and the post-mortem report, which indicated injuries on the back of the deceased's head, were cited to support the claim of private defense. The investigation revealed that the deceased was in a drunken state and was found lying on his daughter, gagging her mouth. The petitioner initially attempted to pull her husband away but, when unsuccessful, used a wooden log and later a hammer to hit the deceased, resulting in his instant death. The petitioner's actions were corroborated by the victim's statements under Sections 161 and 164 Cr.P.C. The court noted that Chapter-IV of the IPC, particularly Section 97, provides for the defense of one's body or another's against offenses affecting the human body. Given that the deceased was found in a semi-nude state, and the injuries matched the petitioner's explanation and the daughter's statement, the court found it appropriate to quash the proceedings under Section 302 IPC. The Criminal Original Petition was allowed and the complaint was quashed, with connected Miscellaneous Petitions also closed.

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**Anandan @ Manavari Anandan Vs. State rep. by the Inspector of Police, All Women Police Station, Uthukottai, Tiruvallur District [CrI.A.No.384 of 2019] [2024 (2) TLNJ 97 (Criminal)]**

**Date of Judgment: 02.08.2024**

In this Criminal Appeal, the appellant, challenged the conviction and sentence imposed by the Fast Track Mahila Court, in Special Sessions Case. The appellant was convicted under Section 5(m) read with Section 6 of the Protection of Children from Sexual Offences (POCSO) Act, 2012, and Section 506(i) of IPC and sentenced to life imprisonment and a fine of Rs.10,000/- for the POCSO offence, and one year of rigorous imprisonment for the IPC offence. The appellant argued that the conviction was based solely on the testimony of the victim (P.W.2), who was 9 years old at the time of occurrence, with no other corroborative evidence. The appellant also highlighted the absence of any signs of sexual assault in the medical examination by P.W.12, and raised doubts regarding the credibility of P.W.2's testimony, suggesting a possible motive attributed to a personal dispute. The court acknowledged minor discrepancies in the victim's statements but ultimately concluded that while a sexual assault had occurred and it did not amount to 'penetrative sexual assault' under Section 3 of the POCSO Act. The court set aside the trial court's conviction under Section 5(m) read with Section 6 of the POCSO Act and instead convicted the appellant under Section 9(m) read with Section 10 of the POCSO Act, sentencing him to five years of rigorous imprisonment and upholding the one-year sentence under Section 506(i) IPC. The appeal was partly allowed, with the sentences to run concurrently and the period of detention already undergone to be set off under Section 428 Cr.P.C.

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**Kaleel Rahman @ Rahman @ Ragu Vs. Inspector of Police, Orleanpet  
Police Station, Puducherry [Crl.A.No.90 of 2019] [2024-2-L.W. (Crl.) 253]**

**Date of Judgment: 16.07.2024**

The appellant, Kaleel Rahman @ Rahman @ Ragu, was initially convicted and sentenced by the Principal Sessions Court for the offences under Sections 302 (murder) and 380 (theft) of the Indian Penal Code (IPC). The conviction was based on the charge that the appellant caused the death of Selvi, wife of Padmanaban, by immersing her head in a water-filled bucket after she refused to part with her gold jewels and subsequently stole her jewels.

The High Court, upon appeal, examined the evidence and found significant inconsistencies and gaps in the prosecution's case. The evidence against the appellant primarily relied on circumstantial evidence, including the last-seen theory, the recovery of stolen jewels, the identification of the accused, and call detail records (CDRs). The Court found that the identification of the appellant by witnesses cannot be believed, as it was done years after the incident without a proper test identification parade. The recovery of the stolen jewels was also questioned due to the lack of proper identification during the trial, and the CDRs were deemed inadmissible as they were not accompanied by the mandatory certificates under Section 65B of the Indian Evidence Act.

Moreover, the Court highlighted the failure of the prosecution to establish a clear motive for the crime and raised doubts about the credibility of the witnesses. The judgment emphasized that in cases based on circumstantial evidence, the prosecution must establish a complete chain of events that leaves no room for doubt about the accused's guilt. Since the prosecution failed to do so, the Court concluded that the conviction could not be sustained.

Consequently, the High Court set aside the conviction and sentence imposed by the Principal Sessions Court and acquitted the appellant of all charges, ordering his immediate release unless required in connection with any other case. The Court also

directed the refund of any fine paid by the appellant and the discharge of any bail bonds executed.

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