TAMIL NADU STATE JUDICIAL ACADEMY

** VOL. XXI— PART 8 — AUGUST 2026**

IMPORTANT CASE LAWS

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SUPREME COURT – CIVIL CASES

Jennifer Messias Vs. Leonard G Lobo [Special Leave Petition (Civil) Nos. 8716-8717 of 2026 (2026 INSC 502)]

Date of Judgment: 18.05.2026

Civil Procedure Code, 1908 – Sections 2(2) and 54 – Order XX Rule 12 and Order XX Rule 18 – Partition Act, 1893 – Sections 2, 3 and 4 – Challenge against the order of interdiction by the High Court in the execution proceedings initiated in consequence of preliminary decree passed in a suit for partition and separate possession that includes comprehensive directions for partition including auction in case of impartibility – *Held :* In certain circumstances, an Order made under Sections 2 to 4 of the Partition Act, 1893 is also a deemed a decree within the meaning of Section 2(2) of CPC – The decree dated 13.04.2012, for all purposes, determined the entitlement or right to possession, *mesne profits* and the first option regarding the mode and manner of working out the shares, in the event of default in the sale of the subject matter – The direction to file a fresh application after the passing of a Final Decree is completely unwanted – The termination of Execution Proceedings amounts to an illegal exercise of jurisdiction and is set aside and is restored – Appeals allowed.

The appellant/plaintiff (decree holder) has filed these appeals against the orders of the High Court interdicting the execution proceedings in a suit for partition and the dismissal of review petition.

The concise facts of the case is that the appellant/plaintiff and her husband purchased the subject flat from their combined income in 1991. They were judicially separated in 2003. The appellant thereafter filed Civil Suit No. 7A/2011 for partition and separate possession of the flat. Her husband, Peter Messias died on 26.03.2014, during the pendency of the suit. The respondent-Leonard G Lobo, claiming to be representing the interest of the deceased Peter Messias, on the basis of a registered Will, remained in possession of the subject matter of the appeals. The execution petition filed by the appellant based on the preliminary decree passed by the trial Court, was dismissed. The appellant filed an application under Order XX Rule 18 wherein the Executing Court directed the public auction of the subject matter and both the parties tendered their offer for purchase of other's share. Before the execution court could pass order, the respondent filed a miscellaneous petition before the High Court to restrain the Executing Court from proceeding with the execution. The High Court interdicted the execution proceedings. The appellant filed a review petition, which was dismissed. Hence, the appeals.

The Hon'ble Supreme Court observed that the High Court ought to have juxtaposed the decree and determined whether the executable portion thereof is being executed. The Court cannot proceed by the nomenclature of the decree without appreciating that, in certain circumstances, an Order made under Sections 2 to 4 of the Partition Act is also a deemed Decree within the meaning of Section 2(2) of the CPC. The Decree dated 13.04.2012, for all purposes, determined the entitlement or right to possession, *mesne profits*, and the first option regarding the mode and manner of working out the shares, in the event of default in the sale of the Subject Matter. The direction to file a fresh application after the passing of a Final Decree is completely unwarranted. The Apex Court directs the restoration of the execution petition. The Court is directed to entrust the warrant to the same Advocate Commissioner who filed the earlier Report, and if not possible, appoint another Advocate Commissioner for conducting the auction and apportioning the same between the parties. While apportioning, the Trial Court shall take into account the condition of the *mesne profits* and disburse the balance to the Respondent. The parties are permitted to bid along with other participants in the course of the sale of the Subject Matter. The Civil Appeals are allowed.

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Habban Shah Vs. Sheruddin [Special Leave Petition (Civil) No. 14479 of 2025 (2026 INSC 451)]

Date of Judgment: 06.05.2026

Civil Procedure Code, 1908 – Sections 20, 28 and 148/151 – Order XX, Rule 12A – Appeal against dismissal of objections to delay in filing execution petition for a decree of specific performance – ***Held*****: Order XX Rule 12A CPC mandates that every decree of specific performance specify a period for payment of the balance sale consideration – The respondent-plaintiff had a reciprocal obligation to deposit the amount within the three months fixed by the decree – An application under Section 28 for rescinding the contract is not mandatory; the court may treat the contract as rescinded even without one – The court's power under Section 28 is discretionary and must be exercised equitably between seller and purchaser – Neither the first appellate court nor the second appellate court granted further time for execution of the sale deed or deposit of the balance consideration – The decree is rendered inexecutable for non-deposit of the balance sale consideration within the stipulated three months, and the contract stands rescinded under Section 28 – Appellant directed to refund the earnest money of Rs.80,000/- with 8% simple interest from the date of receipt in 2005 – Impugned judgment and orders set aside – Appeal allowed.**

The Appellant-Defendant has filed this appeal against the dismissal of his objections to the execution petition in a suit for specific performance, by the Executing Court, as upheld by the High Court.

The Appellant-defendant entered into an agreement to sell the suit land to the Respondent - Plaintiff and received a sum as advance with a condition that the sale deed shall be executed within the time stipulated therein upon payment of the balance sale consideration. Upon non-execution of the sale deed, the Respondent-Plaintiff instituted a suit for specific performance and the same was decreed, which was confirmed by first Appellate Court as well as High Court. The first execution petition filed by the Respondent-Plaintiff was dismissed and subsequently, second execution petition was filed, in which, the Appellant-Defendant filed objection to the effect that the execution is barred by time as the execution petition has been moved after a gap of three years and that the decree allowed only three months' time for depositing the balance sale consideration. The said objection was dismissed by the Executing Court and the same was upheld by High Court. Hence, the appeal.

The Hon'ble Supreme Court noted that in view of Order XX Rule 12A CPC it is mandatory that every decree of specific performance of a contract must specify a payment period for paying the balance sale consideration. It held that the Respondent-Plaintiff had a reciprocal obligation to deposit the amount within three months as ordered in the decree. It is settled that moving of an application under Section 28 of the Act for rescinding the contract for non-compliance of the condition is not mandatory rather optional and immaterial and that the court in a given circumstance is not powerless to treat the contract as having been rescinded for non-compliance of the condition. Referring to the settled principles on the subject matter, the Hon'ble Supreme Court has deduced the following conclusions:

(i) The decree passed in a suit for specific performance is in the nature of a preliminary decree.

(ii) Since the decree of a specific performance is in the nature of preliminary decree, the Court passing the same does not become functus officio as soon as the decree is passed but retains control over the decree even after the passing of the decree till the sale deed is executed or the decree is rendered inexecutable.

(iii) Section 28(1) of the Act provides for depositing or paying the balance sale consideration within the time allowed or to seek recession of the contract in the event of default even though the decree of specific performance has been granted.

(iv) Sub-Section (4) of Section 28 of the Act bars a separate suit for any relief which can be claimed in the same suit by moving an application under Section 28 of the Act.

(v) The power of the Court under Section 28 of the Act is discretionary and can be exercised on equitable consideration. The exercise of such discretion must be equitable to both the sellers and purchasers.

(vi) The default, if any, subsequent to decree for the specific performance resulting in the recession of contract has to be decided having regard to the broad terms of Section 28 (1) and Section 28 (4) in exercise of equity jurisdiction so as to give quietus to the dispute.

(vii) It is not mandatory to move an application under Section 28 and the Court in the given circumstances is not powerless to treat the contract as having rescinded for non-compliance of the condition.

The Hon'ble Supreme Court further observed that neither the first appellate Court nor the second appellate Court had granted further time to execute the sale deed or deposit the balance sale consideration. As the Respondent-plaintiff had not sought an extension of time, which showed a lack of continuous readiness and willingness, the Court held the decree of specific performance inexecutable and the contract rescinded under Section 28 of the Act. The Appellant-defendant was directed to refund the earnest money of Rs.80,000 with 8% simple interest from the date of receipt in 2005. The impugned judgment and orders were set aside, and the appeal was allowed.

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Parvathi Nairthi (Dead) and Ors. Vs. Laxmi Nairthy (Dead) through LRs. and Ors. [Special Leave Petition (Civil) No. 12822 of 2013 (2026 INSC 521)]

Date of Judgment: 21.05.2026

Indian Evidence Act, 1872 - Sections 3 and 68 - Code of Civil Procedure, 1908 - Order XIX, Order XX Rule 12 and Order XLI Rule 31 - Indian Succession Act, 1925 - Section 63 - Appeal against the concurrent Judgments decreeing the suit filed by the younger sister of the testator for declaration of ownership, recovery of possession and mesne profits based on the Will - *Held :* There is nothing in law which requires the registration of a Will and to draw any inference against its genuineness on the ground of non-registration is wholly unwarranted - A Will must satisfy the statutory formalities under Section 63 and at least one attesting witness must be examined to prove execution - The overall terms of the Will, the intention of the testator and the surrounding circumstances have also to be seen - Exclusion of natural heirs, by itself, cannot be construed as a suspicious circumstance so as to invalidate a Will- The Will was validly executed and duly proved in accordance with law and no suspicious circumstance warrants interference with the concurrent findings - Civil appeal dismissed- Impugned Judgment is confirmed.

The appellants/defendants (wife and children of the testator of the Will) have filed this appeal against the concurrent Judgments of the Courts below decreeing the suit filed by the first respondent/plaintiff (younger sister of the testator of the Will) for the reliefs of declaration of ownership, perpetual injunctions, recovery of possession and mesne profits based on the Will.

The deceased Mr. Sheena Nairi (testator), who was employed as a Chartered Accountant and owned substantial immovable properties, executed his last Will dated 15.05.1983 bequeathing the suit schedule properties in favour of first respondent – plaintiff (younger sister) and revoked the earlier power of attorney executed in favour of his brother-in-law. The testator died on 30.11.1983. After his demise, mutation entries were effected in favour of his wife. Subsequently, the first respondent - plaintiff instituted a civil suit seeking a declaration of ownership, recovery of possession, mesne profits and perpetual injunction based on the Will. The appellants – defendants (wife and children) resisted the suit contending that the Will was false and fabricated, the signatures on the Will did not belong to the deceased and the Will had been created in collusion. The Trial Court decreed the suit, which was affirmed by the First Appellate Court and High Court. Hence, the appeal.

The Hon'ble Supreme Court reiterated the decision in ***Ishwardeo Narain Singh v. Kamta Devi and Others [(1953) 1 SCC 295],*** wherein it was held that there is nothing in law which requires the registration of a Will and Wills are, in a majority of cases, not registered at all and to draw any inference against the genuineness of the Will on the ground of its non-registration, is wholly unwarranted. It also reiterated that a Will must satisfy statutory formalities under Section 63 of the Indian Succession Act, 1925 and that at least one attesting witness must be examined to prove execution. The overall terms of a Will, the intention of the testator and the surrounding circumstances have to be considered while determining the validity of the will. Mere exclusion of the natural heirs from the property of the testator cannot be construed as a suspicious circumstance so as to invalidate a Will. A testator is legally entitled to dispose of his property according to his own wishes and unless the exclusion is accompanied by suspicious circumstances affecting the genuineness or due execution of a Will, such exclusion alone does not render a Will invalid. Thus, the exclusion of the natural heirs cannot be sufficient to vitiate the Will in question, particularly when the Will clearly specifies that the testator has not done any injustice to his wife and children. The Will was validly executed and duly proved through the testimony of one of the attesting witness and no suspicious circumstances have been made out warranting interference with the concurrent findings recorded by the Trial Court and Appellant Courts. The civil appeal is dismissed confirming the impugned Judgment.

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[Venkatesha and Anr. Vs. K.M. Venkatamuniyappa (D) Thr. LRs. & Ors. [Special Leave Petition (Civil) No. 23330 of 2023 (2026 INSC 705)]]

Date of Judgment: 14.07.2026

Property Law — Rectification Deed – A unilateral rectification deed cannot substitute one property for an entirely distinct property without the participation of the original transferor – Civil Procedure — Pleadings and Evidence - Relief cannot be granted on grounds outside the pleadings or in contradiction to a party's clear admission during cross-examination. Transfer of Property Act — Section 43 applies only when identity between the property conveyed earlier and the property re-granted is established on record. Specific Relief Act — Section 26 Rectification is intended to correct an inaccurate recording of a common intention, not to substitute the essential subject matter of a conveyance – Title and Recovery of Possession – A plaintiff seeking a declaration of title must succeed on the strength of their own case rather than the perceived weakness of the defence.

Thimmadasappa executed Sale Deed I (1971) conveying property in Survey No. 1/4 to the 3rd Defendant, who subsequently conveyed it via Sale Deed II (1972) to the 4th Defendant, who then sold it via Sale Deed III (1973) to the plaintiff, K.M. Venkatamuniyappa. Years later, in 1982, Inam land in Survey No. 162 was re-granted to Thimmadasappa. In 1997, 4th Defendant and the plaintiff executed a rectification deed to substitute Survey No. 1/4 with Survey No. 162 in Sale Deed III without the original vendor, Thimmadasappa, joining as a party. Subsequently, in 2005, Thimmadasappa partitioned Survey No. 162 among his sons (Appellants/Defendants 1 & 2), prompting the plaintiff to file a suit (O.S. No. 334 of 2007) for declaration of title, permanent injunction, and a declaration that the partition deed was non-binding.

Dismissing the suit, the Trial Court held that the plaintiff could not establish that Survey No. 1/4 and Survey No. 162 were identical properties or that he was in possession of the property in Survey No. 162. Highlighting the plaintiff's own admission under cross-examination (as PW-1) that the survey numbers represented distinct properties, the court upheld Thimmadasappa’s right to seek partition of the property in Survey No. 162.

The First Appellate Court set aside the Trial Court's judgment and decree, observing that the boundaries described in both documents were identical. Consequently, the court decreed in favour of the plaintiff, declaring him the absolute owner of the suit schedule property.

The Hon'ble High Court of Karnataka dismissed the second appeal (RSA No. 397 of 2014) and affirmed the First Appellate Court's decree in favour of the plaintiff. It held that the two survey numbers represented the same property by supplying a new factual premise regarding interchanged boundaries and applying Section 43 of the Transfer of Property Act, 1882.

The Hon'ble Supreme Court observed that the First Appellate Court and the High Court committed fundamental jurisdictional errors by granting relief based on unpleaded facts and conjectures regarding boundary similarities. The Court emphasized that a plaintiff must succeed on the strength of their own case and cannot ignore key judicial admissions, such as PW-1's admission that Survey No. 1/4 and Survey No. 162 were distinct. Furthermore, the unilateral rectification deed of 1997, executed without the original vendor (Thimmadasappa), was not legally sufficient to substitute the subject matter of the conveyance under the guise of Section 26 of the Specific Relief Act, 1963, or to divest title under the doctrine of *nemo dat quod non habet*.

A rectification deed cannot unilaterally alter or substitute the identity of the property conveyed under prior title deeds without the participation or concurrence of the original transferor. Moreover, courts cannot grant relief or invoke equitable principles like Section 43 of the Transfer of Property Act, 1882, in the absence of explicit pleadings and conclusive proof establishing the physical identity of the subject properties. The Hon'ble Supreme Court allowed the appeal, set aside the judgment of the High Court as well as the decree of the First Appellate Court, and restored the Trial Court's decree dismissing the plaintiff's suit, with no order as to costs.

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Russi Fisheries P. Ltd Vs. Bhavna Seth [Civil Appeal No. 109 of 2010 (2026 INSC 339)]

Date of Judgment: 09.04.2026

Civil Procedure Code, 1908 – Section 100 - Specific Relief Act, 1963 – Section 20 – Transfer of Property Act, 1882 – Section 52 – Agreement to sell – Suit for Specific Performance – Trial Court dismissed the suit and granted a refund of consideration – First appellate Court reversed the findings and decreed the suit – Upheld by High Court – Held : Findings of fact howsoever erroneous, cannot be reopened or disturbed in second appeal which is required to be adjudicated only upon the substantial question of law – The Findings of the First Appellate Court on readiness and willingness, extension of time and payment of consideration are not perverse or illegal – The non-appearance of the plaintiff in the witness box was not fatal, as any adverse inference arising from such non-appearance stood rebutted by the other evidence on record – Sale deeds executed by the defendants during the pendency of the litigation were hit by doctrine of lis pendens and are non est - As the decree had already been executed and substantive rights have accrued in favour of the heirs of the plaintiff, it would be inequitable to dislodge them from the benefit of the sale in exercise of discretionary jurisdiction – Appeal dismissed upholding the decree of specific performance.

The appellants / defendants have filed this appeal against the decree passed in a suit for specific performance by the first appellate Court, upheld by the High Court.

One Anil Kishore Seth (since deceased), had entered into a agreement to purchase agricultural lands from the defendants. Part consideration was allegedly paid and the time for execution of the sale deed was extended on multiple occasions. Since the defendants failed to execute the sale deed despite the plaintiff's readiness and willingness to perform his part of the contract, the plaintiffs filed a suit for specific performance before the trial Court, which was dismissed and the court granted a refund of the admitted amount. However, the first appellate Court reversed the findings and held that the plaintiffs had proved readiness by making payments of part consideration on multiple occasions and obtaining extensions of time. It was upheld by the High Court in the second appeal. The defendants challenge the same before the Hon'ble Supreme Court.

The Hon'ble Supreme Court observed that the findings are strictly findings of facts and were not shown to be perverse. It is a settled principle of law that the findings of fact, howsoever erroneous, cannot be reopened and disturbed in second appeal which is required to be adjudicated only upon a substantial question of law. The findings of the First Appellate Court on readiness and willingness, extension of time and payment of consideration are not perverse and illegal. The adverse presumption, if any, drawn for non-appearing in the witness box by the plaintiff, is a rebuttal presumption and if the aforesaid presumption is successfully rebutted by the other cogent evidence on record, the said presumption would not be material and applicable. Adverse inference drawn on account of non-appearance of the plaintiff stands rebutted by his evidence and other evidence on record. In these circumstances, the non-appearance of the plaintiff in the witness box would not be fatal in this case. Sale deeds executed by the defendants during the pendency of the litigation are certainly hit by the doctrine of *lis pendens* and are *non est*. At the same time the decree has already been executed and substantive rights have accrued in favour of the heirs of the plaintiff, therefore it would be inequitable to dislodge them from the benefit of the sale in exercise of discretionary jurisdiction. The Hon'ble Supreme Court, ultimately dismissed the appeal upholding the decree of specific performance.

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SUPREME COURT – CRIMINAL CASES

Neeraj Gupta Vs. Pardeep Kumar Bansal and Ors. [Special Leave Petition (Criminal) No.776 of 2020 (2026 INSC 660)]

Date of Judgment: 01.07.2026

Section 244 of the Criminal Procedure Code, 1973 – The only requirement from the Magistrate is to see whether the offence is exclusively triable by the Court of Sessions – In doing so no evidence need to be taken- power of the Magistrate is a 'narrow inspection hole'.

The present appeal has been filed challenging the common judgment and order passed by the High Court of Punjab & Haryana, Chandigarh which had remanded the matter in dispute to the Judicial Magistrate First Class, Chandigarh to comply with the provisions of Section 244 Code of Criminal Procedure, 1973. The concise facts leading to the present appeal is that on receiving a complaint under Section 200 Cr.P.C., the learned Magistrate had recorded evidence and summoned witnesses and thereon had committed the case to the Court of Sessions. In pursuance to that, the Sessions Court had framed charges only against Respondent No. 2 and discharged Respondent Nos. 1 and 3. Aggrieved by the discharge of the two Respondents the complainant had preferred a Criminal Revision and on the other hand the Respondent No. 2 had also preferred a Criminal Revision challenging the order of framing charge as also the summoning order as against him. The High Court vide common Impugned Order disposed the revision cases and reasoned that Section 244 CrPC requires that a Magistrate hear all prosecution evidence irrespective of whether or not the offence with which the evidence is concerned is triable by the Magistrate or not.

The primary point for consideration in the present Appeal whether a Magistrate must record evidence when the offence is strictly triable by the Court of Sessions as in this case.

The Hon'ble Supreme Court observed that at the pre-trial stage, the Magistrate is required to perform acts in the nature of administrative work rather than judicial and emphasized that the only requirement from the Magistrate is to see whether the offence is exclusively triable by the Court of Sessions and in doing so, no evidence need be taken.

Furthermore, it has been accentuated that the Magistrate dealing with commitment of case has to follow the procedure contemplated under section 209 Cr.P.C and the legislative intent of doing away with the hearing and evidence at pre-committal stage would be frustrated, if the Magistrate goes into the merits of the matter. The power of the Magistrate has been described to be a 'narrow inspection hole'. Because of the restricted role assigned to the Magistrate at the stage of commitment under the new Code, the non-compliance with the same and raising of any objection in that regard after conviction attracts the applicability of the principle of "failure of justice" and the convict appellant becomes obliged in law to satisfy the appellate court that he has been prejudiced and deprived of a fair trial or there has been miscarriage of justice. In the result, the Hon'ble Supreme Court directed the High Court to hear the petition of the appellant as well as the one filed by one of the respondents afresh and decide the same independently.

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[Chandrikaben Kishor Dafda Vs. State of Gujarat [Special Leave Petition (Criminal) No.16030 of 2025 (2026 INSC 665)]]

Date of Judgment: 01.07.2026

Section 125-A of the Representation of People's Act, 1951 – How cognizance of offences will have to be taken by a Magistrate – Dictionary meaning of the word "cognizance" is "judicial hearing of a matter" – Taking notice of an offence-error in taking cognizance under the wrong section is, in fact a curable defect.

The case arises from a complaint filed against the appellant with the Deputy District Development Officer alleging failure to disclose required information during the 2015 Municipal Elections, which was contrary to the rules and a misuse of public trust. Based on this complaint, the Trial Court issued process against the appellant. Aggrieved by the proceedings, the appellant approached the High Court seeking to quash the complaint and the process issued by the Magistrate. However, the High Court rejected the petition by the impugned judgment, giving rise to the present appeal.

On consideration of the circumstances of the case and arguments advanced on both sides, the Hon'ble Supreme Court observed that although the complainant had made a mention of certain provisions under the Indian Penal Code, 1860, the learned Trial Judge while taking cognizance did so only under the Representation of People's Act, 1951. Taking of cognizance itself, even if it was taken under a singular section and that too erroneous, is not a ground for quashing a complaint having regard to the well settled principle of law that cognizance is taken of the offence and not people. If the issue is that a false affidavit has been filed in the electoral process that is an offence against society at large and has to be investigated. The Hon'ble Supreme Court further observed that, the well-settled position of law is that the error in taking cognizance under the wrong Section is, in fact a curable defect so long as the Court that has taken cognizance has the power to take cognizance of the other Sections.

In the result, the Hon’ble Supreme Court deemed it fit to remand the case to the Magistrate for taking cognizance afresh and proceed as per law.

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Sagar Vs. The State Of Haryana [Special Leave Petition (Criminal) No.8113 of 2024 (2026 INSC 692)]

Date of Judgment: 13.07.2026

Section 19(1) of the Juvenile Justice (Care and Protection of Children) Act, 2015 – Rule 13 - Juvenile Justice (Care and Protection of Children) Model Rules, 2016 - Trying a child in conflict with law as an adult - Conviction passed by the Children's Court in the absence of passing an order under Section 19 of the JJ Act - Held - Even if a preliminary assessment under Section 15 is duly conducted by the Juvenile Justice Board, the failure of the Children's Court to independently apply its mind and pass a reasoned order under Section 19(1) strikes at the very root of the protective framework - compliance of Section 19(1) is mandatory for the Children's Court and the statutory obligation is substantive in nature and not merely procedural - Direction to Children's Courts across the country - Upon receipt of records pursuant to transfer/committal under Section 18(3) of the Act by the Juvenile Justice Board - Reasoned order under Section 19(1) of the Act to be preliminarily passed upon due assessment of the 'child in conflict with law' before proceeding further.

The accused were arrested for the murder of one Mandeep based on the FIR registered for the offences under Sections 148, 323, 341, 302 read with 149 IPC. On completion of investigation, the police had filed chargesheet against the Appellant and he was produced before the learned Principal Magistrate, Juvenile Justice Board as he was a minor at the time of commission of offence (16 and half years). The Board carried out a preliminary assessment as prescribed under Section 15 of The Juvenile Justice (Care and Protection of Children) Act, 2015 and had passed an order opining that the Appellant *'was having capability, mental as well as physical, to involve in the act alleged against him and he is liable to be tried as an adult.'*

The JJ Board committed the matter to the Court of Learned Additional Sessions Judge, namely the 'Children's Court' as contemplated under Section 18(3) of the JJ Act. In pursuance thereto, the Children's Court proceeded with the Trial of the case, found the Appellant guilty under Section 302 of IPC, convicted and sentenced him to undergo Rigorous Imprisonment for a period of fourteen years. It also ordered that the Appellant should be kept in a place of safety till he attains the age of 21 years and thereafter, he shall be transferred to the jail. As against the Conviction Order, the Appellant filed a Criminal Appeal before the High Court. The Hon'ble High Court after re-appreciation of evidence available on record, dismissed the same. Hence, the present Appeal.

The Hon'ble Supreme Court enunciated that in cases where the 'child in conflict with law' is above the age of 16 years, and is said to have committed heinous offence, the manner in which the Board is required to proceed is prescribed under Section 15 of the Act. Upon production of such 'child in conflict with law', the Board is required to conduct a preliminary assessment with regard to the child's mental and physical capacity to commit the alleged offence, the ability to understand the consequences thereof, and the circumstances in which the offence is alleged to have been committed. If the Board concludes that the 'child in conflict with law' ought to be tried as an adult, it shall pass an order in terms of Section 18(3) of the Act and commit/transfer the matter to the Children's Court having jurisdiction to try such offences.

The Hon'ble Supreme Court thereafter observed that the first step to be undertaken by the Children's Court, upon receipt of the report, is to take cognizance thereof and upon evaluation, if it decides that the child in conflict with law is to be tried as an adult, then the court is required to pass an order in terms of Section 19(1) of the Act and follow the procedure as that of a Sessions trial. Without passing an order under Section 19(1), the Children's Court cannot proceed with the matter. The Hon'ble Supreme Court further held that compliance of Section 19(1) is mandatory for the Children's Court as the expression 'may' occurring in Sub-section 19(1) and Section

19(1)(ii) will have to be necessarily read as 'shall' to give the provision its full value, since consequences flowing therefrom namely, the trial of a child in conflict with law as an adult and trial as a juvenile, would be different.

The statutory obligation is substantive in nature and not merely procedural, as the Children's Court assumes jurisdiction to try the child in conflict with law as an adult only upon recording satisfaction on the parameters laid down therein. The Hon'ble Supreme Court further held that on a perusal of Rule 13(1) and Rule 13(6) of the JJ Rules, it becomes apparent that immediately upon receipt of the report under Section 15, the Children's Court is required to pass an order under Section 19(1) of the Act. Further, sub rule (6) of Rule 13, by the use of the expression "shall", mandates that the Children's Court must record reasons for its decision as to whether the child in conflict with law is to be tried as a child or as an adult. In the absence of determination under Section19(1), if a child in conflict with law who ought to be tried as a child is instead tried as an adult, there exists a real possibility of the child being subjected to a sentence exceeding three years, which would be contrary to the law, and therefore impermissible. In the absence of an order under Section 19(1), the Children's Court may inadvertently by-pass its jurisdiction akin to that of a Board and assume the jurisdiction of a Sessions Court/Children's Court, which is impermissible. In result, the Hon'ble Supreme Court held that, non-compliance with the mandatory provisions thereof vitiates the entire trial, and consequently the judgment of conviction and sentence is set aside.

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Brajesh Kumar @ Birjesh Kumar Singh Vs. The State of Bihar [Special Leave Petition (Criminal) No. 474 of 2026 (2026 INSC 695)]

Date of Judgment: 13.07.2026

Evidence Act (1 of 1872), S.32 - Penal Code (45 of 1860), S.498A, S.304B - Matrimonial cruelty and dowry death - Dying declaration - Reliability – Testimony of informant belied by defence evidence – I.O. carried out a highly unsatisfactory investigation – Conversely, Magistrate and certifying doctor had recorded valid dying declaration which the prosecution suppressed – Prosecution failed to establish the charges beyond reasonable doubt – Criminal P. C. (2 of 1974), S. 190 – Cognizance of offence – Offence of matrimonial cruelty and dowry death – First charge-sheet was filed against only two accused while investigation continued against fifteen other accused named in the FIR – Police opinion in a final report is not decisive of cognizance, which remains the exclusive prerogative of the Court – No prejudice or miscarriage of justice caused to accused – Cognizance was rightly taken -Accused held entitled to acquittal.

The present criminal appeal arises from two cases that were clubbed together after considerable evidence was led in both the matters separately in respect of the death of the Appellant’s wife under Sections 498A and 304B IPC read with Section 34 of the Indian Penal Code, 1860 (for short, the IPC) and Sections 3/4 of the Dowry Prohibition Act, 1961. Subsequently, after further evidence was adduced jointly, they were de-tagged and adjudicated individually. In the first case, the father-in-law and the mother-in-law, the two accused arraigned, were eventually acquitted. In the second case, fourteen family members of the husband were acquitted whereas the husband, namely the Appellant alone stands convicted. Hence, the present appeal.

The Hon’ble Supreme Court has clearly and categorically held in a catena of Judgments that when a closure report is filed finding no offence has been made out, the Court has three options; Firstly, to accept the report and close the proceedings or secondly, to take cognizance of the matter on the basis of materials in the report or thirdly, to direct further investigation. It is thus open to the Magistrate on submission of a closure report to look into the material facts disclosed in the report and form an opinion as to whether it constitutes an offence and take cognizance of the offence under Section 190(1)(b). The formation of opinion as to whether or not there is a case to place the accused on trial is exclusively with the officer in charge of the investigation. If a closure report is filed; finding no case made out, it is not open to the Magistrate to direct the police to file a charge sheet. It was also clarified that this is not to imply that the Magistrate is absolutely powerless since the Magistrate is competent to proceed to take cognizance of the offence, on the materials revealed in the investigation, under Section 190 which imports a judicial discretion on the Magistrate to receive such report under Section 173. The Magistrate, hence, is not bound to accept the opinion of the police that there is no case to place the accused on trial as it is always open to take a contrary view on the facts disclosed in the report. The Hon'ble Supreme Court has unequivocally held that when the police files a 'closure report', finding no sustainable case made out, the Court cannot direct a charge sheet to be filed, but could always take cognizance on the basis of the material in the report or direct further investigation. Accordingly, the Hon'ble Supreme Court acquitted the appellant/accused reversing the order of conviction passed by the Sessions Court and the order of remand passed by the High Court.

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[Deo Prasad and Another Vs. State of Uttar Pradesh [Criminal Appeal No(s). 239 of 2013 (2026 INSC 707)]]

Date of Judgment: 15.07.2026

Indian Penal Code, 1860 - Sections 147, 148 and 302 read with Section 149 - Prompt transmission of the FIR to the jurisdictional Magistrate is not a mere procedural formality but a vital safeguard intended to ensure fairness and transparency in the investigative process - *Held :* A mere delay in forwarding the FIR is not, by itself, fatal to the prosecution case - However, a delay assumes significance where the surrounding circumstances indicate the possibility of manipulation, deliberation, consultation or introduction of a colored version of events - The Court is required to assess the effect of a delay not in isolation but cumulatively with the other circumstances brought on record - The prosecution having failed to establish the guilt of the accused-appellants beyond reasonable doubt, they are entitled to the benefit thereof - Appeal allowed.

The concise facts of the case are that the appellant along with two other accused were tried before the Learned Sessions Judge for the offences punishable under Sections 147, 148 and 302 read with Section 149 of the Indian Penal Code, 1860. The Learned trial Court convicted the appellants for the offences punishable under Sections 148 and 302 read with 149 of IPC. The aggrieved accused / appellants preferred an appeal to the High Court to assail their conviction and the sentences. During the trial and subsequent appeal, the accused challenged the core prosecution narrative by pointing out that the transmission of the FIR to the jurisdictional Magistrate was withheld. The defense used this delay along with other surrounding circumstances to argue that the FIR was an ante-timed, post-investigation fabrication rather than a spontaneous document. The learned Division Bench of the High Court dismissed the appeal and affirmed the conviction and order of sentence passed by the learned trial Court. Hence, the present appeal has been filed by way of special leave impugning the said order of conviction.

On careful consideration of the facts, circumstances and the arguments advanced on both sides, the Hon'ble Supreme Court has adumbrated and emphasized that prompt transmission of the FIR to the jurisdictional Magistrate is not a mere procedural formality but a vital safeguard intended to ensure fairness and transparency in the investigative process. It has been enunciated that FIR is the document which sets the criminal law in motion and constitutes a valuable piece of evidence for corroborating the prosecution version. Prompt forwarding thereof to the Magistrate serves the salutary purpose of eliminating the possibility of ante-dating, ante-timing, embellishment or subsequent interpolation of facts and enables the Magistrate to effectively exercise the supervisory jurisdiction contemplated under the Cr.P.C.

Furthermore, the Hon'ble Supreme Court has accentuated that a mere delay in forwarding the FIR to the Magistrate cannot, by itself, be treated as fatal to the prosecution case nor can such delay, in isolation, be made the sole basis for discarding an otherwise credible prosecution version. However, where allegations of fabrication are not merely speculative but find substantive support from circumstances appearing on the record and are coupled with surrounding facts generating genuine suspicion regarding the fairness and integrity of the investigation, such delay acquires considerable significance. In such a situation, the delay ceases to be a mere procedural irregularity and assumes substantive importance in evaluating the authenticity of the prosecution narrative, the spontaneity of the FIR and the possibility of subsequent embellishment or manipulation. In such an event, the Court is required to assess the effect of such delay not in isolation but cumulatively with the other circumstances brought on record while testing the overall credibility of the prosecution case. Ultimately, the Hon'ble Supreme Court held that the prosecution has failed to establish the guilt of the accused / appellants beyond reasonable doubt and they are entitled to the benefit thereof.

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HIGH COURT – CIVIL CASES

Mohammed Mytheen & others Vs. Devaraj & others [CRP(MD) No.813 of 2023 & CMP(MD) No.3720 of 2023] [2026 (2) LW 247]

Date of Judgment: 12.03.2026

CPC – Limitation Act, Section 27, Article 64 & 65 - suit for declaration of title and for possession – father of Defendants filed an earlier suit for partition and it was decreed but possession was not taken – plea of Plaintiffs that they have crystallised rights by adverse possession on account of the fact that further proceedings had not been initiated – a prayer for declaration of title for a property covered by a preliminary decree for partition which is yet to crystallise into a final decree is not maintainable- hence the appeal allowed.

This Civil Revision Petition has been filed by the Petitioners/ Defendants to set aside the order of dismissal passed by the Trial Court in the Petition filed under Order 7 Rule 11 of CPC. The case of the Respondents / Plaintiffs is that the suit property belonged to the father of the Plaintiffs by way of the assignment deed, and the father of the Defendants 1 and 2 had earlier filed a suit for partition with regard to the suit property, in which preliminary decree was passed by the Trial Court and the same was confirmed by the Appellate Court, and the father of the Defendants 1 and 2 had not taken steps to recover the possession of the suit property and the Plaintiffs filed a suit for declaration and consequential injunction based on the adverse possession, the same was withdrawn by the Plaintiffs with permission to file a fresh suit for the same cause of action and based on that permission, the Plaintiffs filed the present suit. The Defendants filed the Petition under Order 7 Rule 11 of CPC to reject the said Plaint on the ground that the earlier suits ended in favour of their father and the Plaintiffs are re-agitating the same issue in the present suit. After the enquiry, the said Petition was dismissed by the Trial Court. Challenging the said order, the Defendants filed the present revision Petition.

The Hon'ble High Court observed that a suit for partition does not get extinguished with passing of a preliminary decree and in order to convert a preliminary decree into an executable decree, a final decree is essential. In order to crystallise a right by adverse possession u/s. 27 or under Article 64 or 65 of the Limitation Act, possession would become adverse if no steps had been taken 12 years prior to the presentation of the Plaint and no person, who is in possession of the property pending a litigation, can claim adverse possession. For a person to successfully claim adverse possession, he/she must have already perfected his/her title through 12 years or more of open, hostile and continuous possession and by no stretch of imagination, can a possession pending a litigation be treated as adverse possession. Till the partition suit is finally disposed of by way of filing of a final decree application, the partition suit is deemed to be pending and in the present case, since the final decree has not been passed in the suit for partition filed by the Defendants' father, the claim of the Plaintiffs based on adverse possession is not maintainable.

In the result, this Civil Revision Petition is allowed with a condition that the present suit filed by the Plaintiffs is treated as a Petition for final decree and the Defendants have to pay necessary court fees.

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A.Krishnasamy Gounder & another Vs. M.Kowsalyadevi & others [AS No.917 of 2024 and CMP. No.24109 of 2024] [2026 (2) TLNJ 8 (Civil)]

Date of Judgment: 30.03.2026

Hindu Succession Act – Suit for partition by plaintiff – preliminary decree granted – from Ex.A1 partition deed found that three sons and mother decided to partition the joint family property – mortgage deed also filed to evidence that suit property was in joint possession –partition prior to Hindu Succession Act, 1956 – by conduct of parties, it is clear that the property was treated only as joint – plaintiff being a daughter, acquires a birth right, pursuant to Amendment Act 1 of 1990. Indian Evidence Act, Section 68 - original Will not produced – no explanation – one of attesting witnesses examined not even deposed that he witnessed execution of Will and Testator saw attesting witnesses – mere registration of Will does not improve case of person claiming under Will – Will not proved – co-owner need not be in actual possession – every co-owner is in constructive possession along with other co – owners, unless ouster or exclusion proved – plaintiff in deemed possession entitled to value the suit u/s. 37(2) of Court Fees Act.

This appeal suit was filed by the appellant against the judgment and decree passed by the Trial Court in the suit for partition. The case of the 1st respondent / plaintiff is that she is the daughter of the 2nd defendant and the suit Item No.1 property belonged to the father of the defendants 1 to 4 through the partition deed. Furthermore, the suit Item No.2 property was acquired from and out of the income derived from the suit Item No.1 property and the plaintiff is in joint possession and enjoyment of the suit schedule properties. Hence, the plaintiff has 1/8th share in the suit properties. The plaintiff issued a legal notice to the defendants for partition of the suit properties, but the defendants refused the partition through a reply notice, stating that the father of the defendants 1 to 4 executed the registered Will in favour of his grandson (the 5th defendant). They further stated that the suit Item No.2 is the selfacquired property of the 2nd defendant and he executed a settlement deed in favour of his son. The plaintiff alleged that the said Will and settlement deed had not been acted upon, hence the plaintiff filed the suit for partition.

The case of the defendants is that the suit Item No.1 property is the absolute property of the father of the defendants 1 to 4. The 2nd defendant was running a knitting company, and out of the income derived from the said business, the 2nd defendant purchased the suit Item No.2 property. The son of the 2nd defendant (who is the settlee under the settlement deed) is not added as the party, hence they prayed to dismiss the suit. After the trial, this suit was partly decreed with regard to suit Item No.1 property and dismissed with regard to suit Item No.2 property. Challenging the said decree and judgment, the defendants filed the present appeal suit.

The Hon'ble High Court observed that since the plaintiff has not filed any cross appeal to challenge the findings of the Trial Court with regard to the dismissal of the suit in relation to suit Item No.2 property, the said decision of the Trial Court becomes final. As per Ex.A1 (Partition Deed), Ex.A3 and Ex.A4 (Mortgage Deeds), it is found that the father of the defendants 1 to 4 had treated the suit Item No.1 property as a joint family property. Since, the plaintiff was unmarried till the enforcement of amended Act 1 of 1990, the plaintiff has a birth right in the suit Item No.1 property, and the alleged Will (Ex.B1) executed by the father of the defendants 1 to 4 was not proved by the defendants as the attesting witness, D.W.3 has not deposed that he witnessed the execution of the Will by a testator and in turn, the testator saw the attesting witnesses sign in the Will. The mere registration would not dispense with proof of Will u/s. 68 of the Indian Evidence Act r/w 63 of the Indian Succession Act, so the said Will is not binding on the plaintiff.

The Hon'ble High Court observed that a co-owner need not be in actual possession and the law presumes that every co-owner is in constructive possession of the suit properties along with other co-owners, unless ouster or exclusion is proved. The plaintiff being in deemed possession is entitled to value the suit u/s. 37(2) of the

Court Fees Act. The Hon'ble High Court held that there was no need to interfere with the decision of the Trial Court and the appeal was dismissed.

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Balakrishnan Vs Parameshwari [SA(MD) No.630 of 2025 and CMP(MD) No.20135 of 2025] [2026 (2) TLNJ 57(Civil)]

Date of Judgment: 10.04.2026

CPC, Order 7 Rule 3 – suit for declaration that 'C' schedule property is an absolute property of plaintiff, mandatory injunction to demolish illegal construction by defendant – ownership of schedule 'A' of plaintiff admitted by defendant – in course of putting up any additional construction, defendant encroached into 'C' schedule property – to establish encroachment, report of Advocate filed – admitted by defendant that he encroached with consent of plaintiff – having admitted encroachment, it does not lie in the mouth of defendant to contend that there is no proper description of alleged encroachment and mandate under Order 7 Rule 3 of CPC not satisfied – when plaintiff alleges encroachment by defendant, there is no necessity for plaintiff to seek for recovery of possession and a simpliciter relief for mandatory injunction, would suffice – unlawful construction cannot be compensated in monetary terms as prejudice caused to plaintiff is continuous.

This second appeal has been filed by the appellant / defendant. The case of the respondent / plaintiff is that the plaintiff is the owner of the suit 'A', 'B' and 'C' schedule properties and the defendant, who is the vendor of the suit properties, encroached on the suit 'C' schedule property by constructing a building, hence the plaintiff filed the suit for declaration and mandatory injunction. Per contra, the case of the defendant is that he constructed the building in the year 1994 and he had not encroached on the 'C' schedule property, hence he prayed to dismiss the suit. After the trial, the suit was decreed by the Trial Court and the same was confirmed by the First Appellate Court. Challenging the said judgments and decrees, the defendant filed the present second appeal.

The Hon'ble High Court observed that the plaintiff proved her title through the sale deed (Ex.A2), and the encroachment made by the defendant is also proved through

Exs.C1 to C3 (Report and Plan of Advocate Commissioner). The defendant also admitted in his cross examination that he encroached on the plaintiff's property, per contra he submitted that he constructed the building with the permission of the plaintiff. However, there is no pleading with regard to the alleged permission given by the plaintiff, so the plea of the defendant in relation to encroachment made with the permission of the plaintiff is not accepted.

The Hon'ble High Court further observed that the plaintiff has substantiated the encroachment through the report of the Advocate Commissioner and the sketch filed along with the report. The plaintiff has also sufficiently described the encroachment by giving measurements for the same in the plaint. The court further held that having admitted that he has encroached on the schedule 'C' property, the defendant has no right to claim that there is no proper description of the alleged encroachment under Order 7 Rule 3 of CPC, so, the plaintiff should not be non-suited on the ground of failure to comply with Order 7 Rule 3 of CPC.

The Hon'ble High Court further held that even if a suit was effectively one for possession, but couched in the form of a relief for mandatory injunction, the plaintiff cannot be denied the relief merely on that score alone, if the plaintiff establishes his entitlement to the said relief. Wherever the relief for mandatory injunction is sought for, there should be no delay in approaching the Court and the plaintiff would also have to establish that damages would not adequately compensate the plaintiff for the act complained of. In the present case, the unlawful construction made by the defendant is certainly against the interest of the plaintiff and the plaintiff seeking for a direction for removal of the encroachment is certainly entitled to such positive relief and the plaintiff was not obligated to seek recovery of possession and the relief of mandatory injunction simpliciter was maintainable to adequately address the grievances of the plaintiff. From the above, the Hon'ble High Court finds that there is no need to interfere with the decisions of the Lower Courts.

In the result, this second appeal is dismissed.

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J.Jaffer Ali Vs C.Natarajan [CRP(MD) No.980 of 2026 and CMP(MD) No.4489 of 2026] [2026 (2) TLNJ 67 (Civil)]

Date of Judgment: 06.04.2026

Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017, Section 21(2)(g) – eviction petition by landlord – tenant filed IA to decide maintainability of petition – dismissed – *Held:* RLTOP is a summary proceeding and section 34 excludes operation of the code – the power to question maintainability of a suit is available under the code and it is absent under tenancy legislation – Section 34 is not an enabling provision for a tenant or a landlord to call upon the Rent Controller to decide its jurisdiction as a preliminary issue – Such a power is not present in TNRRRLT Act – calling upon the Rent Court to decide on its own jurisdiction at a preliminary stage does not arise - if the issue is raised by way of a counter, the Rent Court would decide it at the time of final disposal - if the parties to a rent proceeding are permitted to raise such issues, the purpose of having a summary procedure under the Act would itself be defeated.

This Civil Revision Petition has been filed by the petitioner/tenant challenging the order of dismissal of the petition, which was filed questioning the maintainability of RLTOP. The case of the petitioner/tenant is that he is the tenant under the respondent/landlord and the respondent filed the eviction petition and the same was taken on file as RLTOP and the petitioner filed the petition to question the maintainability of the said petition and the same was dismissed by the Rent Court. Challenging the said order, the petitioner filed the present Civil Revision Petition.

The Hon'ble High Court observed that the RLTOP proceedings under the TNRRRLT Act, 2017, is a summary proceeding and Section 34 of the Act specifically excludes operation of the code and the power to question the maintainability of a suit or a proceeding is available under the code and it is absent under the tenancy legislation, and the Rent Court, being a creation of the TNRRRLT Act, 2017, is bound by the four corners of the said legislation and enough elasticity has been given to the Rent Court to evolve and decide its own procedure u/s. 34, and the scope and extent of its jurisdiction is delineated u/s. 33, and Section 34 is not an enabling provision for a tenant or a landlord, calling upon the Rent Controller to decide its jurisdiction as a preliminary issue, and such a power, which is akin to Order 7 Rule 11 or Order 14 Rule 1 of the CPC, is not present in the TNRRRLT Act, 2017 and in the absence of such a provision, calling upon the Tribunal or Rent Court to decide on its own issue at a preliminary stage does not arise.

The Hon'ble High Court further observed that if the issue is raised by way of a counter, the Rent Court would certainly have to decide that issue at the time of final disposal and if the parties to the rent proceeding are permitted to raise such issues or to file such petitions calling upon the Rent Court or Rent Tribunal to decide on its jurisdiction at the outset, then the purpose of having a summary procedure under the Act, would itself be defeated, and the plea of the tenant with regard to jurisdiction is not acceptable because there is no plea raised by the tenant in his counter. From the above, the Hon'ble High Court finds that there is no infirmity in the order of the Rent Court.

In the result, this Civil Revision Petition is dismissed.

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Raja Vs Parvathi [CMA(MD) No.899 of 2023] [2026 (2) TLNJ 18 (Civil)]

Date of Judgment: 12.03.2026

Hindu Marriage Act, 1955, Section 13(1)(i-a) – divorce petition filed by husband – counter claim filed by wife for restitution of conjugal rights – only allegation that wife continued to live with her parents and not join with husband – wife stayed with the husband only for a very short time in matrimonial home – bickering takes place between a husband and wife and particularly during initial stage of marriage are common phenomenon in every marriage relationship – if same attempted as cruelty, most of marriages will have to be dissolved – husband not made out a case for cruelty either physical or mental.

This Civil Miscellaneous Appeal has been filed by the Appellant / Husband challenging the order of dismissal passed by the Family Court in the petition filed for dissolution of marriage. The case of the husband is that he married the Respondent / wife as per Hindu Rites, Rituals and Customs and the respondent was talking ill of the husband and disrespected his parents, and she went to her parents' house and never returned to the matrimonial home.

It is also alleged that the respondent gave birth to a child and the husband was not even invited to her parents' house to see the child, hence the husband filed the petition for dissolution of marriage u/s 13 (1) (i-a) of the Hindu Marriage Act. Per contra, the case of the wife is that she was treated with cruelty and the husband used to move closely with his brother's wife and the husband did not take care of the child, and since the husband and his parents refused to interact/ communicate to the respondent, she was forced to move out of the matrimonial home, and the respondent wanted to live with her husband, hence she prayed to dismiss the said petition and sought for the relief of restitution of conjugal rights by filing a counter claim. After the enquiry, the Family Court dismissed the divorce petition and allowed the counter claim. Aggrieved by the said order, the husband filed the present Civil Miscellaneous Appeal.

The Hon'ble High Court observed that the single appeal filed by the husband against two distinct reliefs granted by the Family Court – one dismissing the divorce petition and the other granting the relief of restitution of conjugal rights, may not be maintainable, because even though a common judgment has been passed by the Family Court, considering the fact that the issues involved were common and it was between the same parties, appeal must be filed independently and hence this appeal is confined only to the dismissal of the divorce petition filed by the husband.

The Hon'ble High Court further observed that the cause of action for filing the divorce petition alone can be taken into consideration and whatever stand was taken in the counter claim will not create a new cause of action for the husband to take advantage of the same and make an attempt to establish the ground of cruelty, so the plea of the husband that questioning the character of the husband in the counter filed by the wife constitutes cruelty, is not accepted, and the bickering that takes place between a husband and wife and more particularly during the initial stage of marriage is a common phenomenon that invariably takes place in every marriage relationship, and if the same is attempted to be projected as cruelty, most of the marriages will have to be dissolved and a stable relationship of a husband and wife is a long drawn process that requires patience and a lot of adjustment, and in the present case, the husband and the wife hardly lived together for a couple of months and the initial bickering were not properly sorted out and both of them are living separately, so the husband has not made out a case for cruelty either physical or mental. From the above, the Hon'ble High Court held that there is no need to interfere with the order of the Family Court. In the result, this Civil Miscellaneous Appeal is dismissed.

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HIGH COURT – CRIMINAL CASES

Nandhini Devi Vs. State of Tamil Nadu, Rep. by its Health Secretary and Others [Crl.R.C.No.950 of 2026 - Madras High Court]

Date of Judgment: 25.06.2026

Surrogacy (Regulation) Act, 2021 - Sections 4(iii)(a)(II) and 4(iii)(c)(I) - Bharatiya Nagarik Suraksha Sanhita, 2023 - Sections 438 and 442 - Revision against the dismissal of the application for an order concerning the parentage and custody of the child to be born through surrogacy - *Held :* Certificates issued by the District Medical Board and the Appropriate Authority carry a presumption of validity and unless set aside by a competent forum or shown to be ex-facie illegal, fraudulent or without jurisdiction, the Magistrate ought not to reassess their merits - The Act does not mandate the examination of the husband of the surrogate mother, whose consent is taken into account in the Eligibility Certificate - The expression "between 23 to 50 years" includes a woman who has completed 50 years but has not attained 51 years - Guidelines issued for Magistrates - Impugned order set aside and matter remanded - Criminal Revision Case allowed.

This Criminal Revision Case, under Sections 438 and 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023, is filed by the intending couple and the surrogate mother to set aside the order dated 18.03.2026 in Crl.M.P.No.258 of 2026 passed by the learned Judicial Magistrate No. I, Namakkal.

Petitioners 1 and 2 were married on 21.02.2005 and their son, born on 21.09.2008, died on 06.11.2024. The 1st petitioner, being medically incapable of carrying a pregnancy, decided to have a child through surrogacy. The Dharan Hospital at Salem initiated the procedure under the Act and the Appropriate Authority issued the Eligibility Certificate dated 23.05.2025 to the couple. The 3rd petitioner, agreed to be the surrogate mother and was issued the Eligibility Certificate dated 22.12.2025, with her husband's consent.

On the petitioners' application under Section 4(iii)(a)(II) of the Act for an order concerning the parentage and custody of the child, the court below dismissed it on two grounds –

1. Age ineligibility, the limit being 23 to 50 years and the 1st petitioner being 50 years 9 months and 3 days on the date of her application and
2. Non-examination of the surrogate mother's husband. Hence, the revision.

The Hon'ble High Court held that the Magistrate's role under Section 4(iii)(a)(II) is limited only to passing the order concerning parentage and custody and does not extend to sitting in appeal over certificates issued by other agencies. Certificates issued by the District Medical Board and the Appropriate Authority carry a presumption of validity and unless set aside by a competent forum or shown to be ex-facie illegal, fraudulent or without jurisdiction, the Magistrate ought not to reassess their merits. The court below had thus exceeded its jurisdiction.

The finding that non-examination of the surrogate mother's husband is fatal to the proceedings was held perverse, since the Eligibility Certificate itself takes his consent into account. The Hon'ble high court relying upon the ratio of the Kerala High Court's Division Bench in ***Rajitha P.V. v. Union of India 2025-SCC-Online-Ker-1624,*** *held that* eligibility of an intending woman extends throughout the 50th year, and the finding that the 1st petitioner did not satisfy "between 23 to 50 years" is misconceived and perverse.

The Parentage and Custody order transfers parenthood to the intending parents even before the child's birth and acts as a birth affidavit, treating the child as the biological and legitimate child of the intending couple. Such proceedings shall be beneficial, facilitative and child-centric, not adversarial litigation.

The Hon'ble High Court of Madras framed the following guidelines:

i. The magistrate shall verify the identity of the parties, the consent of the surrogate mother and of her husband, the statement that she will not claim custody and the intending parents will not abandon the child.

ii. The magistrate shall interact with the parties to satisfy voluntariness.

iii. The magistrate shall satisfy himself that no commercial consideration is involved.

iv. The intending parents shall undertake to accept the child immediately after birth and not abandon the child. The surrogate mother shall undertake that she voluntarily agreed to act as surrogate, has no objection to parentage being vested to the intending parents and shall not claim custody subsequently.

v. The magistrate shall ensure that the welfare of the child shall remain the paramount consideration.

vi. Dispose of applications preferably within four weeks.

vii. Undertake deeper scrutiny only where fraud, fabrication or danger to the welfare of the child is apparent on the face of the record.

The Hon'ble High Court allowed the Criminal Revision Case, set aside the impugned order and remanded the matter for fresh consideration. The petitioners were directed to apply within two weeks for extension of the eligibility certificate.

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Babu Vs The State Rep. by the Inspector of Police, Aanai Malai Police Station, Pollachi Taluk, Coimbatore [Crl. RC No.592 of 2026 and Crl. MP No.4474 of 2026] [2026 (1) LW(Crl.) 572]

Date of Judgment: 10.04.2026

IPC, Section 307 – vital part of the body qua head had three injuries, besides shoulder and forehand – the nature of attack and the part of body chosen for attack, clearly indicates the intention of the accused to cause death of the victim.

This Criminal Revision Case has been filed by the petitioner / accused to set aside the judgment passed by the First Appellate Court, confirming the conviction and sentence made by the Trial Court. The case of the prosecution is that since the accused suspected the fidelity of his wife (P.W.1), he attacked and caused a cut injury on the head of P.W.1 by using a knife, hence the accused committed the offence u/s. 294(b) and 307 of IPC. After the trial, the accused was convicted for the offence u/s. 307 of IPC by the Trial Court and the same was confirmed by the First Appellate Court. Challenging the said conviction, the present Criminal Revision Case was filed by the accused.

The Hon'ble High Court held that the charge against the accused was proved through the victim (P.W.1) and eyewitnesses – P.W.2 (daughter of P.W.1), P.W.3 and P.W.4 (neighbours of P.W.1). The Hon'ble High Court observed that the doctor had admitted that there is a possibility of causing such injury from the iron door. However, admittedly there are no evidence before the Court as to the existence of an iron door. Since the suggestion was answered by the Doctor, it does not mean that it has got more sanctity than the eyewitnesses account, so the plea of the accused that the injury caused to P.W.1 was due to fall on the iron door is not accepted.

The Hon'ble High Court further observed that the essential ingredients for the offence u/s. 307 of IPC are the intention and knowledge of causing death and to answer the above point, the weapon and the parts of the body chosen by the assailant to attack are to be considered. In the present case, the vital part of the body qua head had three injuries, besides shoulder and forehand, which indicate the intention of the petitioner to cause the death of P.W.1. Even though the injury is simple in nature, that, by itself is not a ground to say that there was no intention for the accused to do away P.W.1.

The plea of the accused that the simple injury caused by him would attract the offence u/s.323 of IPC was not accepted by the Hon'ble High Court. Further, the court held that there is no interference needed with the findings of the Trial Court and it dismissed the Criminal Revision Petition. The sentence was reduced from 5 years to 4 years.

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Amulu Vs. Kesavan & others [Crl. A. No.608/2017] [2026(1) LW(Crl.) 608]

Date of Judgment: 12.03.2026

IPC, Section 374 – Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (hereafter called as "SC/ST Act"), Section 3(1)(vi) – Bonded Labour System (Abolition) Act (hereafter called as "BLS Act"), Sections 2(a), 16, 17, 18 – prosecution proved victims are bonded labourers under the accused – on payment of advance accused forced them to work without any salary – burden shifted on the accused and accused failed to adduce by any evidence to prove that debt is not a bonded debt – all the victims are illiterates – accused gave bonded debts to the victims and paid below the minimum wages and restricted their freedom of movement and employment.

This Criminal Appeal has been filed by the Appellant/the Defacto complainant, against the judgment of acquittal passed by the Trial Court. According to the prosecution, all the accused belonged to Hindu Vannia Community and the victims belonged to Irular Community under the Scheduled Tribes. It was alleged that the accused had taken advantage of the victims' historically disenfranchised status by using them as bonded labourers with illegal advances and displacing them from their native villages and forcing them against their will, providing merely nominal wages and wrongfully forcing them to forfeit their freedom of employment and freedom to move from place to place. On this basis, the accused were alleged to have committed offences punishable under Sections 374 of IPC, Section 3(1)(xi) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Sections 16, 17, and 18 of Bonded Labour System (Abolition) Act, 1976. After the trial, the accused were acquitted of all charges. Challenging the said judgement, the Defacto complainant has filed the present appeal.

The Hon'ble High Court observed that when the Social Action Group informed the Revenue Divisional Officer (R.D.O.) about the bonded labourers, it was only an information and it could not be treated as a complaint, but after inspection, if the R.D.O. found that the victims were bonded labourers, then after completing the formalities, the authority concerned could lodge a complaint, and in the present case, the R.D.O. (P.W.15) conducted an enquiry and identified the bonded labourers and by this proceedings, the R.D.O. had released all the bonded labourers as per Sections 10, 11 and 12 of BLS Act. After that, the complaint was lodged by the Tahsildar.

The Hon’ble High Court further noted that the victims examined as P.Ws.1 to 14, 16 and 19 had testified that their entire families resided within the rice mill owned by the accused after receiving advances ranging from Rs.5,000/- to Rs.10,000/-. For their labour, they were paid Rs.30/- or Rs.60/- for a pair and Rs.4/- per bag for boiling and processing paddy, amounts that were adjusted against the advance already taken rather than paid as wages. They were provided one room in the Rice Mill in which, no amenities were provided and the accused never allowed them to visit their native places and the family members were not permitted to leave the Rice Mill at the same time. P.W.15 inspected the Rice Mill and passed a release order and also paid a sum of Rs.1,000/- to the victims. From the above, the prosecution proved that the victims are bonded labourers under the accused and on payment of advance, the accused forced them to work for the advance without any salary and the accused gave illegal bonded debts to the victims.

The Hon'ble High Court has further held that under Section 15 of the Bonded Labour System (Abolition) Act, 1976, once a debt is claimed to be a bonded debt, the burden lies on the creditor to prove otherwise, and in the present case, the accused failed to bring forth any evidence to discharge that burden and to displace the presumption that the victims were rendering labour in consideration of the advance received by them. Recognizing that the victims were illiterate, had endured years of bondage, and could not be expected to confidently navigate complex cross-examination by the defence, the Hon’ble Court held that minor evidentiary discrepancies did not undermine their case. Furthermore, by paying meager piece-rate wages below the statutorily mandated minimum time rate, the accused violated the Minimum Wages Act. Accordingly, the Hon'ble High Court held the accused guilty of the offences under Section 374 of the IPC, Section 3(1)(xi) of the SC/ST (Prevention of Atrocities) Act, 1989, and Sections 16, 17, and 18 of the Bonded Labour System (Abolition) Act, 1976.

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G.Chidambaram Vs. The Chief Secretary to Government, Govt. of Tamil Nadu, Secretariat, Chennai & another [WP(MD) No.11256 of 2026] [2026 (1) TLNJ 440 (Crl.)]

Date of Judgment: 20.04.2026

Cr.P.C., Section 161 – To restore online public access to F.I.R. except offences against women and SC/ST Act – accused entitled to receive documents such as orders of Remand Report, Affidavit of Police Officer for Police custody of the accused and orders of Magistrate thereon, copy of F.I.R. even before final report – accused not entitled to certified copies of Inquest Report, Statements recorded u/s. 174, Post-mortem Certificate and requisition by Police Officer for conducting post-mortem and Wound Certificate, Rough Sketch and copies of Wound Certificates – other than accused and victim, public as a matter of right cannot view the F.I.Rs. – if any third party require copy of F.I.R., he/she may approach Court seeking certified copy of F.I.R. as per law.

This Writ Petition has been filed by the petitioner for directing the respondents to restore online public access to FIRs, except in cases relating to offences against women, sexual offences and SC/ST Act under the CCTNS 2.0 systems. The Hon'ble High Court considered the decisions of the Hon'ble Supreme Court *in* ***Youth Bar Association Vs. Union of India reported in (2016) 9 SCC 473*** and Section 173 of B.N.S.S. and Rule 231 of Criminal Rules of Practice, 2019 and held the following:

1. A copy of the information as recorded u/s. 173 (1) of B.N.S.S. shall be given forthwith, free of cost, to the informant or the victim, and even prior to issuance of copies as prescribed u/s. 207 Cr.P.C. An accused is entitled to get copy of F.I.R.,
2. Orders made on the Remand Report, Affidavit filed by the Police Officer for Police custody and the order passed by the Magistrate in it.
3. However, the accused is not entitled for the copies of the Inquest Report, Statements recorded u/s. 174 of the Code, Post-mortem Certificate, requisition by the Police Officer for conducting post-mortem, Wound Certificate, Rough Sketch,

observation Mahazar and Statement of Witnesses recorded u/s. 161 of the Code, until the final report is filed by the Police.

The Hon’ble High Court further held that other than the accused and victim, the public as a matter of right cannot view the F.I.Rs. If any third party requires copy of F.I.R. he/she may approach the concerned Magistrate's Court seeking certified copy of F.I.R. as per law.

With the above observations, the Writ Petition was disposed of.

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S.Rajadurai Lingam Vs. The State of Tamil Nadu, Rep. by the Inspector of Police, All Women Police Station, Alangulam, Tenkasi District & another [Crl. OP(MD) No.16736 of 2024 and Crl. MP(MD) Nos.10502 & 10504 of 2024] [2026 (1) TLNJ 507 (Crl.)]

Date of Judgment: 30.04.2026

Protection of Children from Sexual Offences Act (hereafter called as "POCSO"), 2012, Section 7 – bad touch allegation against Teacher – *Held:* sexual intent is not incidental but foundational – in the absence of prima facie material, penal provision cannot be mechanically attracted – the victim was conscious, coherent, capable of understanding questions and unequivocally stated that she had not been subjected to sexual abuse by petitioner – once the very alleged victim displaces the prosecutorial foundation, continuance of prosecution under section 7 and 8 would be wholly artificial – mere disciplinary admonition or academic warning cannot be elevated into criminal intimidation – corrective classroom discipline, absent anything more, cannot be criminalized under a stringent child protection statute – a teacher discharging legitimate disciplinary functions cannot be exposed to criminal prosecution upon misconceived allegations.

This Criminal Original Petition has been filed by the petitioner/accused to quash the case registered against the accused. The case of the prosecution is that the victim girl, then a student of VII Standard, allegedly disclosed to her mother that when she had gone to the staff room, the accused, then serving as Tamil Teacher in the school, allegedly subjected her to "bad touch" and threatened her with academic consequences if she disclosed the incident, so the accused committed the offences under section 7 and 8 of the POCSO Act and 506(i) of IPC. To quash the said case, the accused filed the present Criminal Original Petition.

The Hon'ble High Court observed that for offences under section 7 of POCSO Act, sexual intent is not incidental but foundational and in the absence of prima facie material disclosing such intent, the penal provision cannot be mechanically attracted and it contemplates sexual assault involving physical contact with sexual intent and "Sexual intent" is thus the indispensable mens rea, and in the present case, the material does not disclose prima facie any act bearing sexual overtone and the victim herself, upon interaction with the Hon'ble High Court, categorically disowned any allegation of sexual abuse, and once the very alleged victim displaces the prosecutorial foundation, continuance of prosecution under section 7 and 8 of POCSO Act, would be wholly artificial and the allegation of intimidation is equally unsustainable and the supposed statement that the child may not be permitted to write examinations, even as alleged, emerges in the setting of classroom discipline and lacks ingredients of criminal intimidation u/s. 506(i) of IPC, and mere disciplinary admonition or academic warning cannot be elevated into criminal intimidation absent real threat contemplated by penal law.

The Hon'ble High Court finds that trivial acts causing slight harm beyond the threshold of criminal law do not warrant prosecution as per Section 95 of IPC, and corrective classroom discipline, absent anything more, cannot be criminalized under a stringent child protection statute, and criminal law cannot be permitted to become an instrument to convert pedagogic correction into sexual crime, and allegations under the POCSO Act, deserve utmost seriousness; false or exaggerated invocation of its provisions, however, equally undermines the sanctity of the statute meant for genuine victims, and a teacher discharging legitimate disciplinary functions cannot be exposed to criminal prosecution upon exaggerated or misconceived allegations, for such misuse has the potential to corrode educational institutions themselves, and child protection laws are to shield the vulnerable, not to punish ordinary human interactions bereft of criminality, and where prosecution rests not upon a real offence but upon misunderstanding amplified into accusation, judicial intervention is not merely permissible but imperative. From the above discussions, the Hon'ble High Court finds that the present case is an abuse of process of law. In the result, this Criminal Original Petition is allowed and the case against the accused is quashed.

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