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IMPORTANT CASE LAW



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MADRAS HIGH COURT – CRIMINAL CASES

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SUPREME COURT – CIVIL CASES

2019 (3) MWN (Civil) 823

**Sameer Kapoor and another vs. State through Sub-Division Magistrate South, New
Delhi and others.**

Date of Judgment:29.04.2019

Indian Succession Act, 1925 (39 of 1925), Sections 228 & 276 When an Application under Section 276 of the Act is submitted for Probate or for Letters of Administration with will, if any objection is raised by any body with respect to execution of the Will, in that case, the Applicant is required to prove the Will and thereafter the will shall be probated and the Court may pass an Order for Letters of Administration. However, in a case where a Will has been proved or deposited in a Court of competent jurisdiction situated beyond the limits of the State, whether within or beyond the limits of India, in that case, as provided under Section 228 of the Act, when a properly authenticated copy of the Will is produced, the Letters of Administration may be granted in favour of such person. Meaning thereby, in such a situation, the will is not required to be proved again and it shall be conclusive. Therefore, Section 228 of the Act shall be an enabling provision and it confers an additional right to apply for Letters of Administration on the basis of such authenticated copy of the Will.

2019 (3) MWN (Civil) 812

Sir Sobha Singh & Sons Pvt., Ltd., vs. Shashi Mohan Kapur (Deceased)thr.L.R.

Date of Judgment:15.07.2019

Code Of Civil Procedure, 1908 (5 of 1908), Order 23, Rule 3 & Order 20, Rule 6-A - No formal Decree drawn up after passing of Consent Order- High Court of view that Execution Petition not maintainable in absence of such Decree – Challenged.

Even though the Appellant did not file the Certified copy of the Decree along with the Execution Application for the reason that the same was not passed by the Court, yet the Execution Application filed by the Appellant, in our view, was maintainable. Indeed, so long as the formal Decree was not passed, the Order, dated 01.06.2012 was to be treated as a Decree during the interregnum period by virtue of Order 20, Rule 6-A(2) of the Code. In other Words, notwithstanding the fact that the Decree had not been passed, yet by virtue of principle underlined in Order 20, Rule 6-A(2) of the Code, the Order, dated 01.06.2012 had the effect of a Decree till the date of actual passing of the Decree by the Court for the purpose of execution or for any other purpose. This empowered the Executing Court to entertain the Execution Application and decide the objections raised by the Respondent on merits.

2019 (6) CTC 700

Menka Gupta vs. Umashree Devi

Date of Judgment:07.08.2019

Code of Civil Procedure, 1908 (5 of 1908), Order 9 Rule 13 & Order 21 Rule 97 – Scope of and distinction between.

The scope of submissions available to an Obstructionist under Order 21, Rule 97 of CPC would be restricted to consider whether he could validly or lawfully obstruct the execution of the Decree. On the other hand for a Defendant, who had moved an Application under Order 9 Rule 13 of CPC, the scope of the challenge would be to consider whether there was sufficient cause which prevented him from appearing when the proceedings were taken up or whether there was serious infirmity in service of the Summons upon him. The scope of challenge and available submissions at these two stages are, thus, distinct and different.

2019 (9) SCC 132

Ritu Saxena vs. J.S.Grover & another

Date of Judgment:17.09.2019

Contract and Specific Relief – Specific Relief Act, 1963 – Section 16(c) - Readiness and willingness to perform – Non-establishment of – Financial capacity of vendee whether established.

Self-serving statements without any proof of financial resources cannot be relied upon to return a finding that the appellants was ready and willing to perform her part of the contract. The appellant has not produced any income tax record or the bank statement in support of her plea of financial capacity so as to be ready and willing to perform the contract. Therefore, mere fact that the bank has assessed the financial capacity of the appellant while granting loan earlier in respect of another property is not sufficient to discharge proof of financial capacity in the facts of the present case to hold that the appellant was ready and willing to perform her part of the contract. Such is the finding recorded by both the courts below as well.

2019 (7) MLJ 423 (SC)

Syeda Nazira Khatoon (D) by LR vs. Syed Zahiruddin Ahmed Baghdadi and others

Date of Judgment:26.09.2019

Muslim Law – Mutawalli – Whether mutawalli could transfer his office to another person by creating trust deed, despite existence of wakf deed providing line of succession to office.

Wakf deed does not give mutawalli any such power to select another person as future mutawalli on his demise, by creating a trust deed or any other instrument to that effect. In the absence of such an authorization, transfer of office of mutawalli by last mutawalli by way of a trust deed in favour of his wife, clearly went beyond purview of his powers and settled principles of Mohammedan law. Creation of trust deed to alter succession of office of mutawalli in her favour, is tantamount to changing the terms of the original wakf deed. It is a subversion of the intent underlying the wakf deed and is illegal, as it goes beyond the powers vested with the mutawalli.

SUPREME COURT – CRIMINAL CASES

2019 (3) SCC(Cri) 236 :: 2019 (4) SCC 354

Bhagyan Das vs. State of Uttarakhand & another

Date of Judgment: 11.03.2019

Criminal Procedure Code, 1973, - Section 320 – Offence Compoundable with permission of Court – Discretion of Court in such cases – Matters to be considered in exercise of such discretion.

It was the case of the prosecution that in the beneficial scheme introduced for poor persons under residential scheme, an amount of Rs.9,800/- was sanctioned during the year 1991-1992 to the complainant. It is the specific case of the complainant that though she was to be paid entire Rs.9,800 but the appellant misled her and procured her signature and made payment of only Rs.4,000/- and he has utilized rest of the amount for himself for his personal benefit and gain. Merely because an offence is compoundable under Section 320 CrPC, still discretion can be exercised by the court having regard to nature of offence, as such it is rightly held in the impugned judgment that as the offence for which the appellant was convicted and sentenced, it will have its own effect on the society at large. In view of the reasons recorded, it cannot be said that the High Court has committed any error in not accepting the application filed for compounding the offence.

2019 3 SCC(Cri) 575; 2019 (8) SCC 371

Sachinkumar Singhraha vs. State of M.P

Date of Judgment: 12.03.2019

Criminal Trial – Appreciation of Evidence – Generally – Purpose of conducting criminal trial – Duty of courts while evaluating evidence – What should be?

A criminal trial cannot be equated with a mock scene from a stunt film. Such trial is conducted to ascertain the guilt or innocence of the accused arraigned and in arriving at a conclusion about the truth. The courts are required to adopt a rational approach and judge the evidence by its intrinsic worth and the animus of the witnesses. The Courts are not obliged to make efforts either to give latitude to the prosecution or loosely construe the law in favour of the accused. The traditional dogmatic hypertechnical approach has to be replaced by a rational, realistic and genuine approach for administering justice in a criminal trial. In this view of the matter, we find no error in the reliance placed by the courts upon the circumstance of the recoveries effected at the instance of the appellant-accused. It is worth reiterating that though certain discrepancies in the evidence and procedural lapses have been brought on record, the same would not warrant giving the benefit of doubt to the appellant-accused. It must be remembered that justice cannot be made sterile by exaggerated adherence to the rule of proof, inasmuch as the benefit of doubt given to an accused must always be reasonable, and not fanciful.

2019 (3) SCC(Cri) 10

Accused 'X' vs. State of Maharashtra

Date of Judgment: 12.04.2019

Criminal Procedure Code, 1973 – Sections 235(2) and 465 – Pre-sentence hearing – meaningful hearing must be given to accused by trial court before deciding sentence to be awarded – Failure to do so amounts to procedural irregularity.

Section 235(2) CrPC implies that once the judgment of conviction is pronounced, the Court will hear the accused on the question of sentence and at that stage, it is open to the accused to produce such material on record as is available to show the mitigating circumstances in his favour. In other words, the accused at this stage argues for imposition of lesser sentence based on such mitigating circumstances as brought to the notice of the court by him. Section 235(2) CrPC mandates pre-sentence hearing for the accused and imbibes a cardinal principle that the sentence should be based on “ reliable, comprehensive information relevant to what the court seeks to do”. In the case at hand, the accused argues that his right to fair trial stands extinguished as he was not provided a separate hearing for sentencing. The object of Section 235(2) CrPC is to provide an opportunity for the accused to adduce mitigating circumstances. This does not mean, however, that the trial court can fulfill the requirements of Section 235(2) CrPC only by adjourning the matter for one or two days to hear the parties on sentence. If the accused is ready to submit his arguments on this aspect on the very day of pronouncement of the judgment of conviction, it is open for the trial court to hear the parties on sentence on the same day after passing the judgment of conviction.

2019 (6) CTC106

Shiv Prakash Mishra vs. State of Uttar Pradesh & another

Date of Judgment: 23.07.2019

Code of Criminal Procedure, 1973(2 of 1974), Section 319 - Summoning of additional accused – Power to proceed against other person appearing to be guilty of offence – Exercise of powers – Standard of proof – Limitations.

The standard of proof employed for summoning a person as an accused person under Section 319, Cr.P.C., is higher than the standard of proof employed for framing a charge against the accused person. The power under Section 319, Cr.P.C., should be exercised sparingly. As held in *Kailash vs. State of Rajasthan and another*, 2008 (14) SCC 51, “ the power of summoning an additional accused under Section 319, Cr.P.C., should be exercised sparingly. The key words in Section are “ it appears from the evidence” ... “ any person”... “has committed any offence”. It is not, therefore that merely because some witnesses have mentioned the name of such person or that there is some material against that person, the discretion under Section 319, Cr.P.C. would be used by the Court”.

Dr.Swapan Kumar Banerjee vs. State of West Bengal & another

Date of Judgment: 29.09.2019

Code of Criminal Procedure, 1973(2of 1974), Section 125- Maintenance – Divorced wife – decree for divorce granted on the ground of desertion – Entitlement to maintenance – maintenance sought by wife after divorce – Sustainability.

A woman who has been divorced by her husband can still claim Maintenance under Section 125 of the CrPC. The question is how we should read the provisions of sub-section(4) in this regard, especially when we deal with those women, against whom a decree for divorce has been obtained on the ground that they have deserted their husband. Once the relationship of marriage comes to an end, the woman obviously is not under any obligation to live with her former husband. The deeming fiction of the divorced wife being treated as a wife can only be read for the limited purpose for grant of maintenance and the deeming fiction cannot be stretched to the illogical extent that the divorced wife is under a compulsion to live with the ex-husband. The husband cannot urge that he can divorce his wife on the ground that she has deserted him and then deny Maintenance which should otherwise be payable to her on the ground that even after divorce she is not willing to live with him.

MADRAS HIGH COURT – CIVIL CASES

2019 (3) MWN (Civil) 568

Jasmine Ennasi vs. Thaiyalnayagiammal & 8 others

Date of Judgment: 01.02.2019

Easements Act, 1882(5 of 1882), Section 13 – Easement by necessity – Right of passage given to transferor cannot be taken away by Transferee by subsequent sale deed.

As per Section 13 of the Indian Easements Act 1882, the right of passage given to the transferor cannot be taken away by the transferee by the subsequent sale deed.

Therefore, by necessity, the respondents are entitled for passage through C schedule property. The extent of passage has already been prescribed under Ex.A3. The appellant, who is the subsequent purchaser of the Servient Tenement cannot diminish the right of access of the Dominant Tenement merely because his sale deed does not disclose about the passage. Though the easement by prescription, which was considered in favour of the Respondents by the courts below may not be correct, since the respondents have not proved the existence of passage prior to his purchase in the year 1974, however, having proved his right of easement by grant and necessity, the finding of the Courts below needs no interference.

2019 (3) MWN(Civil) 379

Arulmigu Jala Perumal Temple, Kallapalayam, H/o, Periyapatty, rep by its Executive Officer/Fit Person vs. Settlement Tahsildar & others

Date of Judgment: 27.03.2019

Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 (T.N. Act 30 of 1963), Section 45 – Limitation Act, 1963 (36 of 1963), Sections 4, 12(1) & 12(2) – Order cannot be put against one, who is not party to proceedings – Question of limitation would not arise in challenging such proceeding, if person challenging had no knowledge of order.

The appellant is not a party to the sale deed. Therefore, in law there is no need for a challenge to the sale deed. Secondly, the tribunal is not right in holding that there was unexplained delay in filing the appeal. In as much as the appellant was not a party to the proceedings initiated by the Assistant Settlement Officer, the said Order cannot be put against it and therefore, the question of limitation would not arise in challenging the proceeding of the Assistant Settlement Officer. Thus the finding rendered by the Tribunal to the said effect cannot be sustained.

2019 (4) TLNJ 218 (Civil)

Ganeshan @ Ganesh & another vs. Vilasini & another

Date of Judgment: 25.04.2019

Motor Vehicles Act, 1988, Section 166, 173 – Four persons travelled in the motor cycle talking to each other – Contributory Negligence.

The Division Bench of the High Court of Madras in the case of “The Managing Director”, Tamilnadu State Transport Corporation, Coimbatore vs Abdul Salam and Others, reported in “2003 (1) MLJ 489”, has taken a judicial note of the fact that when three persons travel in a two-wheeler, the rider of the two wheeler will not have control over the handle bar and the brake. The rider of the motorcycle is almost sitting on the petrol tank when three persons travel in the motorcycle. When three person travel in two-wheeler, the rider will not have control over handle bar and brake, whereas in the present case, four persons travelled in the two-wheeler and definitely the rider of the motorcycle would not have had control over the handle bar and brake. Hence, there is no error in the award of the Tribunal warranting interference by this Court.

2019(7) MLJ 518

Muthammal & others vs. V.Thangavel

Date of Judgment: 29.04.2019

Civil Procedure – Permanent injunction – Appeal – Civil Procedure Code, 1908, Order 2, Rule 2 – Earlier suit filed by Plaintiff is only for relief of permanent injunction and subsequently, suit pertaining to this appeal has been filed for relief of specific performance – Cause of action is different in both suits – Whether the Suit is barred under Order 2 of CPC.

The earlier suit filed by the Plaintiff is only for the relief of permanent injunction and subsequently, the suit pertaining to this appeal has been filed for the relief of specific performance. The cause of action is different in both the suits. The present suit filed by the plaintiff is not barred under Order II Rule 2 C.P.C.,

2019 (7) MLJ 489

Saroja & another vs. Anjalaiammal & others

Date of Judgment: 09.09.2019

Property Laws – Proof of Will – Plaintiff filed suit for declaration of title and permanent injunction, claiming ownership of suit properties by virtue of Will executed by her father. Whether examination of all attestors necessary to prove Will.

The attesor to Will has been examined as P.W.2. He has deposed that he has seen the testator signing the Will in the presence of himself and the other attesting witness. The statutory requirement namely, examination of atleast one of the attesting witnesses has been satisfied. The Will being a registered instrument is entitled to presumption. Though, P.W.2 has been extensively cross-examined nothing has been brought about to discredit its

testimony at least regarding the execution and the attestation of the Will. The reasons assigned by the lower appellate court, particularly, the non-examination of the other attesting witness cannot hold water and the findings of lower appellate court regarding execution of the Will liable to be interfered with and finding of lower appellate court regarding the truth and genuineness of the Will are set aside and Will is upheld.

2019 (7) MLJ 460

S.Mallika vs. R.Krishnaveni

Date of Judgment:13.09.2019

Succession Laws – Alienation – Minor’s undivided share – Hindu Minority and Guardianship Act, 1956, Section 6, 8 and 12 – Limitation Act, 1963, Article 60.

It is admitted that mother who acted as the guardian of the Plaintiff did not obtain permission of the Court to execute the sale deed. It had further been provided under Section 8(3) of the said Act, that any disposal of immovable property by a natural guardian in contravention of the stipulation to obtain permission of the Court is voidable at the instance of the minor. If that sale is voidable then, if the minor is to avoid obligation under the sale deed, then the sale deed should be set aside in manner know to law. The manner known to law is by a judgment of the Court to set aside the sale deed in so far as it relates to the share of the minor. Article 60 of the Limitation Act provides that a minor has to set aside the transfer of property made by a natural guardian within a period of three years from the date when the minor had attained the age of majority. In the present case, neither has the Plaintiff sought a prayer to set aside the sale deed nor has she filed the suit within the period of three years from the date of attaining the age of majority. The suit has to fail on these grounds.

2019 (7) MLJ 404

Nazyeema vs. MydeenBatcha

Date of Judgment:18.09.2019

Muslim Law – Triple Talaq – Notice – Validity – Suit filed by Plaintiff for declaration of Muthalak notice as null and void – Whether finding of Trial Court Triple Talaq is null void is correct?

Correct law of Talaq as ordained by the Holy Quran is that Talaq must be for as reasonable cause and be preceded by attempts to reconciliation between the husband and the wife by two arbiters – One from the wife’s family and the other from the husband’s and if the attempts fail, the talaq may be effected. Evidence available before this Court do not show that there is valid Talaq made either through Triple Talaq and Legal Notice. Neither there is an evidence to show that there had been a reasonable cause nor there is evident to show that Talaq is preceded by attempt for reconciliation. Hence, this Court has no hesitation to hold that through Legal Notice Talaq has not been legally pronounced.

2019 (5) LW 32

P.Dhilip Kumar vs. T.K.Durga Devi

Date of Judgment:19.09.2019

Hindu Marriage Act(1955), Section 12(c) dissolution of marriage, Section 21

maintenance, Right of wife for maintenance - Interim alimony – Grant of – Scope.

The right of a wife for a maintenance is an incident of the status or estate of matrimony. Section 24 of the Hindu Marriage Act, which provides for maintenance pendent elite and expenses of proceedings, clearly applies to all proceedings under the Act. An order for maintenance pendent elite and costs of the proceedings, can, as the initial words of the Section clearly state, be made in any proceeding under the Act, viz., for restitution of conjugal rights, judicial separation, divorce or nullity of void and voidable marriage. When a fact of marriage is acknowledged or proved alimony follows subject of course to the discretion of the Court in the matter having regard to the means of the parties and it would be no answer to the claim for maintenance pendent elite that the marriage was void ipso jure or was voidable. The fact that there is a strong possibility of the marriage being declared as a nullity is no ground for declining even the basic right to claim interim alimony and expenses of the litigation.

2019 (3) MWN(Civil) 589

V.Manimegalai vs. Selvaraj Kannan

Date of Judgment:14.10.2019

Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017 (T.N. Act 42 of 2017), Sections 4-A,21(2) & 4(2) –

Unregistered Rental agreement – effect of non-registration – Maintainability of rent control proceedings – Bar to approach rent control court.

Sub-Section(c) of Section 4-A of Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, makes it clear that, if the rental agreement (document) required to be registered, has not been registered, it does not have any evidentiary value of any transaction affecting such property or conferring any right. However, on the grounds urged or to be urged by the party, who are the landlord, it is for the landlord to prove his case for getting the relief of eviction on the two named grounds i.e, default as well as the owner's occupation and for the said purpose, it is not a pre-condition that the registered rental agreement must be accompanied with the application filed under Section 21(2) of the said Act.

2019 (6) CTC 62

C.Rangaraj & another vs. Inspector General of Registration, Santhome & 5 others

Date of Judgment: 14.10.2019

Tamil Nadu Patta Pass Book Act, 1983(T.N Act 4 of 1986), Section 5(1) – Registration Act, 1908 (16 of 1908) – For transfer of any land by sale, gift, mortgage, exchange, settlement or otherwise patta pass book relating to such land must necessarily be produced before registering authority – In case of Agricultural land, document relating to transfer cannot be registered without producing relevant revenue record before registering authority. It is seen that the land in question was an agricultural land. It has been described as Punjai in the schedule to the sale deeds. Therefore, as per Section 5(1) of the Tamil Nadu Patta Pass Book Act, 1983, no document relating to transfer of any land by sale, gift, mortgage, exchange, settlement or otherwise shall be registered by the registering authority, unless the patta pass book relating to such land is produced before such registering authority. Of course, it has subsequently been instructed that it is enough if the registrant produces a copy of the computerized chitta extract. In other words, in the case of agricultural land, the document relating to transfer cannot be registered unless the revenue record is produced before the registering authority. The validity of this requirement was sustained in the decision in “Rajambal vs. Inspector General(Registration), 2012 (2) CTC 289:: 2012 (1) CWC 627”.

MADRAS HIGH COURT – CRIMINAL CASES

2019 (3) MWN (Cr.) 383

Srinivasan vs. State. Rep. by Inspector of Police, Pallapatty Police Station, Salem

Date of Judgment: 26.08.2019

Indian Penal Code, 1860 (45 of 1860), Section 107 & 306 – Abetment to commit suicide – Ingredients constituting offence under Section 306 – Accused must have intention to instigate deceased by his words or action driving deceased to take extreme step of committing suicide.

In order to constitute an offence under Section 306 of IPC, there must be materials to show that the Petitioner has aided or abetted the commission of suicide by the deceased. In order to substantiate the said offence the mental element on the part of the Accused plays a major role. In other words, the Accused must have an intention to instigate the deceased by his words or action, to push the deceased to take the extreme step of committing suicide. The Words, *per, se*, do not in any way satisfy the requirements of Section 107 of IPC. Therefore, if Section 107 of IPC is not satisfied, the offence under Section 306 of IPC, cannot be made out.

2019 (2) LW(Cr) 738

T. Kokila Devi vs S. Thenmurugan

Date of Judgment: 09.09.2019

Criminal Procedure Code, Section 438 – I.P.C., Sections 294(b), 498(A), 506(i) – once a petition for anticipatory bail is disposed by the High Court whether on merits or dismissed as withdrawn, subsequent petition for anticipatory bail before the Sessions court would not lie.

When a petition for anticipatory bail is disposed of by one particular Judge of the High Court, if he is available any subsequent petition for anticipatory bail also should be listed and placed before the very same Judge. It cannot go to another Judge of the High Court. If another Judge of the High Court cannot deal with a subsequent petition for anticipatory bail, I fail to understand as to how a subsequent anticipatory bail can be maintainable before the Sessions Court. The irresistible inference is that once a petition for anticipatory bail is disposed by the High Court whether on merits or dismissed as withdrawn, subsequent petition for anticipatory bail before the Sessions Court would simply not lie. This has been the consistent position of law enunciated by the Madras High Court.

2019 (2) TLNJ 374 (Criminal)

**Bass & Co Ammapet, Salem & another vs. Dhandapani Cements Pvt., Ltd.,
Tiruchirappalli**

Date of Judgment: 03.10.2019

Negotiable Instrument Act, 1881, Section 138 – Proceedings under – Discharge petition – with several grounds – Maintainability.

A perusal of the orders of the court below clearly reveals that the court below has applied its mind to the materials available on record and the stand of the parties and has held that the truth or otherwise in the issue could be elicited only after examination of witnesses and perusal of documentary evidence and the legal issues raised with regard to the status of the authorized person to lodge the complaint and all these needs to be appreciated only at the time of the trial and therefore, it would not be prudent to discharge the petitioners at the present point of time.

This Court is in complete agreement with the view taken by the court below. Without putting the witnesses to examination and without examining the material documents, discharging the petitioners/accused would work grave prejudice to the complainant.

2019 (3) MWN (Cr.) 425

**Kenneth Stanley (alias) Ken, Thanjavur vs. Intelligence Officer, Narcotics Control
Bureau, Chennai.**

Date of Judgment: 16.10.2019

Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985), Section 37- Code of Criminal Procedure, 1973 (2 of 1974), Section 439– Bail – Grant of – Scope – Parameters to be followed – Unless conditions imposed under Section 37 satisfied, Accused not entitled to grant of bail.

The general rule for the use of discretionary power of grant of bail cannot be made applicable to the offence under NDPS Act as grant of bail will be examined and the Court must satisfy itself that there are reasonable grounds for believing that the Accused is not guilty of offence and further, the Accused is not likely to commit any offence while on bail. Further, in view of the specific provisions of sub-section (2) of Section 37 contemplating the limitations to be in addition to the limitations for grant of bail under Cr.P.C., the power of the Court to grant bail in NDPS cases, where the punishment is five years or more, is contemplated, should be exercised with great caution, keeping in view the Legislative intent, namely the parameters of Section 37(1)(b)(i) &(ii) of the NDPS Act.

2019 (2) TLNJ 466 (Criminal)

**Ramachandran & 4 others vs. The Deputy Superintendent of Police, Railway Track
Police Sub Division, Madurai & another**

Date of Judgment: 17.10.2019

Indian Penal Code, 1860, Section 306 IPC and Section 3(1)(i) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 – Deceased aged

about 18 years – There is nothing to show that there was any intentional act on the part of the petitioners which led the deceased to commit suicide.

As per the definition under Section 305 of IPC, there should be direct act of instigation by the accused. Further, the accused should have intentionally aided the deceased to commit suicide. In the case on hand, as per the available evidence, there is nothing to show that there was any intentional act by the petitioner for the deceased to commit or intentionally aided or there was no illegal omission on the part of the petitioner for the deceased to commit suicide. The words used by the petitioner were that without maths book he do not attend the class and stay away from the class room. Further he has stated that he should meet the Headmaster along with the parents for not bringing the maths book. These words are normally used by all the teachers and it do not instigate or abet any person to commit suicide.

2019 (3) MWN (Cr.) 433

Sivapugal vs. V. Meena and Others

Date of Judgment: 22.10.2019

Protection of Women From Domestic Violence Act, 2005 (43 of 2005), Sections 18, 28 & 32 – Protection of Women from Domestic Violence Rules, 2006, Rule 15(6) – Code of Criminal Procedure, 1973 (2 of 1974), Section 468 – Complaint filed under Section 18 after 6 year of separation – If, barred by limitation.

Therefore, it is made clear that though Domestic Violence Act is Special Act, in view of the provisions under Sections 28 & 32 of the Domestic Violence Act read with Rule 15(6) of the Protection of Women from Domestic Violence Act, 2005 which make the provisions of Cr.P.C applicable. Therefore, the provisions under Section 468 of Cr.P.C comes into play and as such the Complaint under the Domestic Violence Act ought to have filed within a period of one year from the date of incident. Therefore, the Complaint is barred by limitation as contemplated under Section 468 of Cr.P.C.
