TAMIL NADU STATE JUDICIAL ACADEMY

**** VOL. XXI — PART 2 — FEBRUARY 2026****

IMPORTANT CASE LAWS

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SUPREME COURT – CIVIL CASES

K.S.Dinachandran Vs. Shyla Joseph & Ors. [Special Leave Petition (Civil) Nos. 11057 – 11058 of 2025 (2025 INSC 1451)]

Date of Judgment: 17.12.2025

Indian Succession Act, 1925 - Section 63 - Indian Evidence Act, 1872 - Section 68 – Suit for partition – Decreed by Trial Court disbelieving the will executed in favour of defendants – Upheld by High Court – Held : The rule of prudence; of the caution required in upholding a will which divests the legal heirs as a whole, is not the situation existing in the instant case, but, the person excluded was one of the children of the plaintiff, the sole one excluded – The propounders of the will are the siblings of the one excluded and there is a reason stated for such exclusion, the acceptability of which to our minds, is not what the rule of prudence dictates – We cannot put the testator in our shoes and we should step into his and we cannot substitute our opinions in place of that of the testator; his desire prompted by his own justifications – We would only ensure that, sitting in the arm-chair of the testator the rule of prudence is satisfied for the exclusion; which on the facts of this case amply satisfies the judicial conscience – The testator was also established to be of sound and disposing mind at the time of execution of the will – There can be no interference to the will which stands proved unequivocally – The appeals are allowed and the suit stands dismissed.

The civil appeals have been filed by the appellants (defendants) challenging the High Court's judgment which affirmed the trial court's decree in a partition suit.

The dispute arose from a will executed by N.S. Sreedharan in March 1988, which provided for eight of his children but excluded the respondent (plaintiff) because she had married outside the community. Although the respondent was aware of the will as early as 1990 during a separate injunction suit, she did not contest its validity at that time. It was only in 2011 that she filed the current suit for partition. Both the Trial Court and the High Court found the will's execution suspicious, primarily because the surviving attesting witness (DW-2) did not initially depose to the attestation of the second witness and gave seemingly contradictory statements about his visits to the testator's house.

The appellants contended that the legal requirements for proving a will under Section 63 of the Indian Succession Act and Section 68 of the Evidence Act were fully satisfied, as DW-2 eventually affirmed the signatures of the testator and both attesting witnesses, and that minor discrepancies in testimony were natural given that the witness was examined twenty-four years after the will's execution. Conversely, the respondent submitted that the will remained unproven because DW-2's testimony was inconsistent.

The Hon'ble Supreme Court noted that while DW-2's examination-in-chief lacked specific details regarding the second witness's attestation, this "missing piece" was supplied during cross-examination through leading questions posed by the respondent's own counsel. The Court observed that mathematical precision in a witness's memory is not expected after several decades and affirmed that the testator was of sound and disposing mind. Reiterating the rule of prudence, the Court held that it must step into the armchair of the testator to respect his testamentary intentions rather than substitute its own views. The testator's perspective must prevail, and the Court need only ensure that the exclusion, seen from that standpoint, satisfies the rule of prudence, which on the facts amply satisfies the judicial conscience. While allowing the appeals, the Supreme Court set aside the concurrent findings of the lower courts, declared the will satisfactorily proved, and dismissed the partition suit.

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NAK Engineering Company Pvt. Ltd. Vs. Tarun Keshrichand Shah and Ors. [Special Leave Petition (Civil) Nos. 6024-6025 of 2022 (2026 INSC 8)]

Date of Judgment: 05.01.2026

Civil Procedure Code, 1908 – Order I, Rule 10 – Improper impleadment – Suit for recovery of service charges – Impleadment of a sub-tenant by Trial Court – Set aside by High Court – Held : A necessary party is one without whom, no order can be made effectively, a proper party is one in whose absence an effective order can be made but whose presence is necessary for a complete and final decision on the question involved in the proceeding – No person has any right to be impleaded so as to defend the suit regarding payment of service charges – The appellant failed to demonstrate its right or interest in the suit, and thus was neither a necessary nor proper party – The appellant's delay in seeking impleadment and lack of evidence regarding its claimed status as the successor to the original tenant, are fatal – Appeal dismissed with a direction that the decree passed in the suit would not be used against the appellant and would not be implemented against it.

The civil appeal has been filed by the appellant (third party) challenging the High Court’s judgment and order which reversed a Trial Court's decision to allow the appellant to be impleaded as a defendant in a suit for the recovery of service charges.

The dispute originated from a suit filed by the respondents (property owners) against respondent no. 3 (a tenant firm) for the recovery of service charges related to the use of furniture and fixtures in a commercial premises in Mumbai. After the suit proceeded ex-parte, the appellant filed a motion for impleadment, asserting they were the successor of respondent no. 3 under Part IX of the Companies Act, 1956 and the current occupant of the premises. While the court of first instance allowed the impleadment, the High Court set it aside, ruling that the appellant was neither a necessary nor a proper party and that the suit would not fail in their absence. Hence, the present appeal.

The appellant contended that the High Court exceeded its supervisory jurisdiction under Article 227 and that they were a necessary party because any decree passed against the defunct respondent no. 3 would effectively be executed against the appellant. Conversely, the respondents submitted that they are dominus litis and cannot be compelled to add a defendant against their wishes, further noting that the appellant had waited nine years to seek impleadment despite knowing of the suit since 2008.

The Hon'ble Supreme Court reiterated that a "necessary party" is one without whom no effective order can be made, while a "proper party" is one whose presence is necessary for a complete and final decision on the question involved in the proceeding. The Hon'ble Supreme Court held that because the respondents claimed no relief against the appellant, the appellant was not a necessary party, nor were they a proper party as the suit could be decided without them. The Court also highlighted that the respondents/ plaintiff, as dominus litis, has the right to choose their adversaries. Ultimately, the appeal was dismissed, confirming the High Court's order, with a specific direction that any decree passed in the suit would not be implemented against the appellant.

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Srinibas Goradia Vs. Arvind Kumar Sahu & Ors. [Special Leave Petition (Civil) No. 3682 of 2025); 2025 INSC 1467]

Date of Judgment: 17.12.2025

Industrial Disputes Act, 1947 – Section 2(s) – Definition of "workman" – Illegal termination – Reinstatement with back wages – Dominant nature test – Supervisory vs. manual/clerical duties – Effect of designation and nomenclature - Held: The singular question in this appeal is whether the appellant is a "workman" within the meaning of Section 2(s) of the Industrial Disputes Act, 1947. The Labour Court had set aside the appellant's termination as illegal for breach of Section 25F, but this was overturned by the High Court, which held that the appellant's role was supervisory. Held: The "dominant nature test" is the acid test to determine "workman" status, focusing on the substantial, essential, and principal nature of the work for which the employee is engaged rather than incidental or accessory tasks - For an employee to be considered a supervisor, they must possess an independent right to exercise control or command over others with decision-making power, such as the authority to hire, discharge, or sanction leave. - Consequently, the appellant falls within the definition of a "workman". The High Court committed a manifest error; judgment set aside, and the Labour Court's award is restored.

The civil appeal has been filed by the appellant challenging the High Court judgment and order, which set aside a Labour Court award that had directed his reappointment with full back wages. The central issue in the appeal was whether the appellant qualified as a "workman" under Section 2(s) of the Industrial Disputes Act, 1947.

The dispute originated from the termination of the appellant's services in April 2018 after nearly 13 years of service. While the appellant claimed he was a cashier performing manual and clerical duties, the respondent-employer contended he was a "Front Office Executive" or "Manager" performing supervisory work. The Labour Court concluded that the termination was illegal and in breach of Section 25(F) of the Act, but the High Court overturned this finding, asserting that the appellant's duties were supervisory or managerial, thus excluding him from the definition of a "workman".

The respondent-employer argued that the appellant's role involved supervising room boys and that his designation placed him outside the purview of the Act. The appellant maintained that he had no independent authority and no power to sanction leave.

The Hon’ble Supreme Court noted that the "dominant nature test" is the decisive factor in determining "workman" status, highlighting that the actual nature of duties performed rather than the designation or nomenclature given by the employer is what matters. The Court observed that for an employee to be considered a supervisor, they must possess an independent right to exercise control or command over others, including disciplinary powers. In this case, the Court found that the appellant's duties, such as working as a receptionist and handling hotel boys without the power to sanction leave, were essentially manual and clerical. Consequently, the Supreme Court held that the High Court committed a manifest error, set aside the impugned order, and restored the Labour Court’s judgment.

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Alka Shrirang Chavan & Anr. Vs. Hemchandra Rajaram Bhonsale & Ors. [Special Leave Petitions (Civil) Nos. 27660 of 2025 (2026 INSC 52)]

Date of Judgment: 12.01.2026

Civil Procedure Code, 1908 – Section 47 – Order XXI, Rule 35, 97, 98, 101 – Limitation Act, 1963 – Article 129 and 134 – Transfer of Property Act, 1882 – Section 52 – Specific Relief Act, 1963 - S.19(b) – Doctrine of *lis pendens* – Constitution of India – Article 142 – Suit for specific performance filed – Pending suit, multiple sale deeds were executed in respect of suit property – Suit decreed – Subsequent purchasers claimed ownership and resisted the execution of the decree – Courts below dismissed the claim – Held : The doctrine of *lis pendens* prohibits the transfer or dealing with immovable property during the pendency of a suit – Transfers made by a judgment debtor during ongoing litigation are considered *pendente lite* transactions and are generally binding on subsequent transferees who have notice of the suit – Purchases during the pendency of a suit are subject to the final decree and such transferees are bound by the outcome – Transfers made with notice of the suit do not create independent rights capable of obstructing enforcement – To prevent further harassment and ensure swift enforcement, no additional applications concerning the property shall be entertained, safeguarding the decree holder's rights and promoting expeditious execution – Appeals are dismissed with a direction to hand over physical possession of the suit property to the decree holder.

These civil appeals were filed by the appellants challenging the High Court's judgment and order, which affirmed the dismissal of their objections as obstructionists to the execution of a decree for specific performance concerning a suit property.

The dispute originated from a 1973 agreement for sale, which led to the filing of a suit for specific performance in 1986, where a notice of lis pendens was registered on May 2, 1986. During the pendency of the suit in 1987, the 2nd respondent/ judgment debtor transferred portions of the property to various persons via eight sale deeds. A decree for specific performance was granted in 1990, and a sale deed was executed in favour of the decree holder by a Court Commissioner in 1993 after the judgment debtor failed to comply. The appellants, who purchased parts of the property in 1995 and 1996 from the 1987 transferees, resisted the execution of a possession warrant in 2019. Both the Executing Court and the High Court rejected their objections, holding that as pendente lite purchasers, they were bound by the finality of the decree. Hence, these appeals.

The appellants contented they were bona fide subsequent purchasers with valid title who should have been impleaded in the 1993 conveyance and that the decree holder's possession claim was time-barred, and that subsequent transferees must be joined in the conveyance. The respondent countered that the transfers were hit by Section 52 of the Transfer of Property Act, making them subservient to the decree, and that the appellants, as transferees pendente lite, had no independent right to resist execution.

The Hon'ble Supreme Court noted that the doctrine of lis pendens, encapsulated in Section 52 of the Transfer of Property Act, dictates that property under litigation cannot be transferred to affect the rights of any party under a decree. The Court observed that since the transfers occurred after the registration of lis pendens, the appellants' rights were subservient to those of the decree holder. Distinguishing Lala Durga Prasad, the Court held that the precedent applied only to transfers made prior to the filing of a suit, whereas the transfers here were clearly pendente lite. The Court also dismissed the limitation argument, noting the application for removal of obstruction was filed within the statutory 30-day period from the date of actual resistance. Ultimately, the appeals were dismissed with a direction to hand over possession by February 15, 2026, and an order under Article 142 of the Constitution barring any future frivolous applications to ensure the decree holder finally enjoys the fruits of a 40-year litigation.

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Danesh Singh & Ors. Vs. Har Pyari (Dead) Thr. LRs. [Civil Appeal No. 14761 of 2025 (2025 INSC 1434)]

Date of Judgment: 15.12.2025

Civil Procedure Code, 1908 – Section 47 – Order XXI, Rule 58, 89, 90, 92, 99 and 100 – Transfer of Property Act, 1882 – Section 52 – Suit filed by the purchasers of certain extent of mortgaged land, which was subjected to court proceedings and auction sale – Decreed – Upheld by the First Appellate Court and High Court – Auction Purchasers filed appeal – Held : Transfers or sales during the pendency of a suit involving rights to immovable property are generally invalid unless expressly authorized by the Court and that procedural remedies are the appropriate and exclusive means to challenge irregularities or nullities in such proceedings – Once an auction sale is confirmed and the aggrieved party has not sought to set it aside, a separate suit challenging the order confirming the sale is expressly barred under Order XXI Rule 92(3) – The appropriate remedy in such cases is to move an application under Section 47 CPC – Appeal allowed.

The civil appeal was filed by the appellants, who were auction-purchasers, challenging the High Court's judgment that affirmed the maintainability of a separate suit instituted by respondents 1 and 2.

The dispute originated from a 1970 loan where the borrower mortgaged land to a bank. After the bank obtained a decree in 1984, the original borrower's son (a judgment-debtor) sold a portion of the mortgaged property to respondents 1 and 2 in 1985. However, the entire mortgaged property was subsequently attached and sold in a court auction to the appellants in 1988 to satisfy the bank's decree. Respondents 1 and 2, alleging they were denied access to the land in 1989, filed a fresh suit seeking to declare the auction sale void and asserting their own title and right to possession. While the Appellate Court, and High Court all ruled in favour of the respondents, the appellants sought relief from the Apex Court.

The appellants contented the respondents' purchase was void under the doctrine of lis pendens (Section 52, Transfer of Property Act) because it occurred during the pendency of the bank's suit and execution, and that a separate suit was barred by Section 47 CPC and Order XXI Rules 99–100 since execution issues must be decided by the executing court. The respondents countered they were bona fide purchasers with a "No Encumbrance Certificate" and unaware of the auction, and that their suit was maintainable under Order XXI Rule 92(4) as "third parties" challenging the judgment-debtor's title.

The Hon'ble Supreme Court noted that the transfer of the property to the respondents was squarely hit by lis pendens because the right to the immovable property was "directly and specifically in question" from the moment the bank filed suit. The Court observed that as pendente lite transferees, respondents 1 and 2 were "representatives" of the judgment-debtor and were bound by the execution proceedings. Consequently, the Court held that the separate suit was barred by Section 47 CPC, which prohibits separate litigation between parties or their representatives regarding the execution of a decree. Furthermore, the Court clarified that for a party dispossessed during execution, the only appropriate remedy is an application under Order XXI Rule 99, and the failure to move the executing court within the prescribed limitation period cannot be bypassed by filing a separate suit. Despite finding the suit non-maintainable, the Court recognized that the respondents had been litigating for over 40 years; therefore, to do "substantial justice," it directed the appellants to pay Rs. 75,00,000/- to the respondents. Ultimately, the appeal was allowed, and the High Court's judgment was set aside.

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SUPREME COURT – CRIMINAL CASES

K.P. Kirankumar @ Kiran Vs State, By Peenya Police [Special Leave Petition (Criminal) No. 11287 of 2025 (2025 INSC 1473)]

Date of Judgment: 19.12.2025

Indian Penal Code, 1860 – Sections 366-A, 373 and 34 – Juvenile Justice (Care and Protection of Children) Rules, 2007 – Rule 12 – Child trafficking and commercial sexual exploitation – Appeal preferred against conviction and sentence passed by Trial Court, upheld by High Court –Age determined through Ossification test is a mere approximation and cannot be held to have better probative value than a certificate issued by school – Date of birth recorded in certificate from school first attended by victim would take precedence over medical opinion – Judicial appreciation of victim's evidence must be marked by sensitivity and realism – Conviction and sentence upheld.

The criminal appeal has been filed by the appellant challenging the High Court's judgment and order which affirmed his conviction for offences involving child trafficking and commercial sexual exploitation under Sections 366A, 373, and 34 of the Indian Penal Code, as well as Sections 3, 4, 5, and 6 of the Immoral Traffic (Prevention) Act.

The dispute originated from a police raid conducted on November 22, 2010, at a rented house in Bangalore following information from an NGO that a minor girl was being held for prostitution. A decoy was sent to the premises and offered money to the appellant (A1) for sexual intercourse with the victim, leading to the minor's rescue and the seizure of incriminating articles. The minor victim testified that she had been forcibly taken to the appellant's custody and coerced into prostitution for various customers. While the appellant's wife (A2) was also involved, both the Trial Court and High Court convicted the accused based on the victim's testimony and corroborating evidence from the raiding team and independent witnesses. Hence the present appeal.

The appellant contended that the victim’s version was embellished with contradictions regarding her injuries and the physical layout of the apartment. He further argued that the evidence regarding the victim's age was unreliable because no ossification test was conducted, and that the search of the premises was unlawful for failing to strictly comply with the witness requirements of Section 15(2) of the ITPA.

The Hon’ble Supreme Court noted that judicial appreciation of a minor trafficking victim's evidence must be marked by sensitivity and realism, holding that minor contradictions should not be used to discard a reliable prosecution case. The Court observed that a school certificate takes precedence over an ossification test for determining a minor's (victim's) age according to Rule 12 of the Juvenile Justice (Care and Protection of Children) Rules, 2007. Furthermore, the Court held that infractions of Section 15(2) of the ITPA regarding search procedures are irregularities that do not vitiate a trial unless they cause a failure of justice, and found that the search in this instance was substantially compliant. While confirming the findings of the Trial Court and High Court, the Apex Court dismissed the appeal.

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Sumit Bansal Vs. M/s MGI Developers And Promoters & Anr. [S.L.P. (CRIMINAL) NO.10770 of 2025 (2026 INSC 40)]

Date of Judgment: 08.01.2026

Negotiable Instruments Act, 1881 – Sections 138, 141 and 142 – Code of Criminal Procedure, 1973 – Section 482 – Criminal appeals filed against the quashing as well as refusal to quashing of complaints filed under Section 138 of N.I. Act, concerning dishonoured cheques issued in relation to an agreement to sell of commercial units – Each dishonoured cheque can constitute a separate cause of action, provided the statutory requirements are met and each cheque is dishonoured independently – Scheme of law does not prohibit multiple prosecutions arising from different cheques, even if they relate to the same transaction.

The criminal appeals were filed by both the complainant/ appellant in the lead Appeal and the accused/ respondents in the lead Appeal, challenging judgments of the High Court which had partially quashed and partially sustained various complaints filed under Section 138 of the Negotiable Instruments Act, 1881.

The conflict began when the respondents failed to execute Sale Deeds for three commercial units by the stipulated deadline, despite having received the full payment of Rs. 1,72,21,200/- from the complainant. To secure repayment, the respondents issued two sets of cheques: one from the firm's account and another from the proprietor's personal account as a personal guarantee. Following the dishonour of these and subsequent cheques issued for appreciation amounts, the complainant filed five separate criminal complaints. The High Court quashed the complaint regarding the firm's cheques, reasoning that the complainant could not maintain parallel prosecutions for the same underlying liability, which led to the lead appeal by the complainant.

The complainant contended that the High Court erred because the respondents never disputed the issuance or dishonour of the cheques, and the ingredients of Section 138 were fully satisfied for each instrument. Conversely, the respondents submitted that the complainant had already exhausted his remedy by instituting proceedings for the personal cheques and was barred by estoppel from pursuing the firm's cheques.

The Hon'ble Supreme Court observed that the High Court exceeded its jurisdiction under Section 482 of the Cr.PC by conducting what amounted to a "mini trial" on disputed factual questions. The Court highlighted that the power to quash should be exercised sparingly and only where no offence is prima facie disclosed. The Court held that under Section 138 of the NI Act, a separate cause of action arises upon each dishonour of a cheque, and the fact that multiple cheques arise from one transaction does not merge them into a single cause of action. Furthermore, the Court highlighted the presumption under Section 139 of the NI Act, which mandates that the burden of proving the absence of a debt or liability must be discharged by the accused during the trial. Ultimately, the Supreme Court allowed the complainant's appeal, restoring the quashed complaint for trial, and dismissed the respondents' appeals, confirming that the complaints prima facie disclosed the ingredients of the alleged offences.

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The State (NCT) Of Delhi Vs. Khimji Bhai Jadeja [Special Leave Petition (Criminal) No. 9198 of 2019 (2025 INSC 25)]

Date of Judgment: 06.01.2026

Criminal Procedure Code, 1973 – Sections 220, 223, 220(1), 223(a), 223(d), 161, 395(2) [Sections 243 and 246 of Bharatiya Nagarik Suraksha Sanhita, 2023] – Under Sections 220(1) Cr.P.C. and 223(a) and (d) Cr.P.C., consolidated charges can be framed against several accused persons in relation to several offences, if such offences are committed during course of same transaction – Precedential law has laid down triple tests, though not to be applied cumulatively, to decide when separate actions can be treated as part of 'same transaction' – 1) unity of purpose and design; 2) proximity of time and place; and 3) continuity of action – These tests may be applied to ascertain whether a series of acts form part of same transaction or not – Consolidation of FIRs is permissible in law but that would have also depended upon conclusions to be arrived at after investigation – As a conspiracy is alleged, leading to multiple acts of cheating against different individuals, the course adopted by Delhi Police in registering one FIR and treating complaints received from other complainants as statements under Section 161 Cr.P.C., was the correct course of action to have been adopted at that stage – Appeal allowed.

The criminal appeal was filed by the State (NCT) of Delhi challenging a High Court judgment which answered a criminal reference regarding the legality of clubbing multiple complaints into a single FIR.

The dispute originated from FIR No. 89 of 2009, involving allegations that the respondent and his accomplices defrauded 1,852 investors of ₹46.40 crores by falsely claiming divine powers to triple their money. While the police registered a single FIR and treated 1,851 subsequent complaints as statements under Section 161 CrPC, the High Court ruled that each deposit constituted a separate transaction necessitating individual FIRs and charge sheets to protect the rights of the complainants. Hence, the present appeal.

The appellant contended that a conspiracy to defraud several persons is a "single transaction" and that requiring individual FIRs for each victim would result in an unnecessary multiplicity of proceedings.

The Hon'ble Supreme Court observed that the reference to the High Court was premature as the investigation was still ongoing. Drawing on established triple tests—unity of purpose and design, proximity of time and place, and continuity of action—the Court noted that offences forming part of the "same transaction" can be tried together under Sections 220(1) and 223 CrPC. The Court held that because a criminal conspiracy was alleged, the police's decision to register a single FIR was the correct course of action. The Court further clarified that treating complainants as witnesses does not deprive them of their rights, as they remain entitled to file protest petitions. Ultimately, the Supreme Court set aside the High Court's answers and allowed the appeal.

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Arvind Dham Vs. Directorate of Enforcement [Special Leave Petition (Criminal) No. 15478 of 2025 (2026 INSC 12)]

Date of Judgment: 06.01.2026

Prevention of Money Laundering Act, 2002 – Section 45 read with Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 – Constitution of India – Article 21 – Appeal against rejection of bail in the case of committing substantial wrongful loss to Public Sector Banks – One of circumstances to consider gravity of offences is also term of sentence prescribed for the offence – Court has also to take into account object of Special Act, gravity of offence and attending circumstances along with period of sentence – All economic offences cannot be classified into one group as it may involve various activities and may differ from one case to another – Continued incarceration particularly, where evidence which is primarily documentary in nature, is already in custody of prosecution, violates right of appellant to speedy trial under Article 21 – Impugned judgment is set aside and bail is granted to the appellant.

The criminal appeal was filed by the appellant, challenging the High Court's judgment and order, which had rejected his application for regular bail under Section 483 of the BNSS, 2023 and Section 45 of the Prevention of Money Laundering Act, 2002 (PMLA).

The dispute originated from allegations of a coordinated bank fraud involving the Amtek Group, of which the appellant was a former promoter. FIRs alleged fraud running into hundreds of crores, following which the Directorate of Enforcement registered ECIRs in March 2023. The appellant was arrested on 09.07.2024. While a prosecution complaint and a supplementary complaint were filed against several individuals and entities, the appellant was the only person arrested and remanded to custody. After more than 16 months of incarceration, the trial had progressed only to the stage of scrutiny of documents, with 210 prosecution witnesses cited. The appellant's bail application was rejected by the Special Judge, and his subsequent plea for regular bail was dismissed by the High Court through the impugned order, leading to the present appeal to secure his liberty.

The appellant argued that prolonged incarceration without commencement of trial violated his right to personal liberty and speedy trial under Article 21 of the Constitution, particularly as the investigation was complete and the maximum prescribed sentence is seven years. The respondent, however, opposed bail citing the gravity of the offence and the appellant's alleged influence, including claims that he had attempted to dissuade a witness from cooperating and had dissipated proceeds of crime, thereby failing to satisfy the twin conditions under Section 45 of the PMLA.

The Hon'ble Supreme Court noted that the right to a speedy trial, enshrined under Article 21 of the Constitution, is a fundamental right that is not eclipsed by the nature of the offence. The Court observed that the ED's investigation against the appellant was complete and that the delay in trial was primarily attributable to the respondent, who had secured a stay on proceedings for eight months during a separate legal challenge. The Court further found the allegations of witness tampering to be wholly incredulous as the appellant was already in custody when the witness in question was formally arrayed. Highlighting that prolonged pretrial detention should not be permitted to become a form of punishment, the Court held that the appellant's continued incarceration violated his constitutional rights. Ultimately, the appeal was allowed, and the appellant was granted bail subject to terms fixed by the Trial Court.

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X Vs. The State of Uttar Pradesh & Another [Criminal Appeal No. 164 of 2026 (2026 INSC 44)]

Date of Judgment: 09.01.2026

Protection of Children from Sexual Offences Act, 2012: Sections 5, 6, 9, 10 – Bharatiya Nagarik Suraksha Sanhita, 2023: Sections 65, 74, 137, 352 – Courts must weigh the gravity of the offence and potential for intimidation of witnesses – Bail cannot be granted in sexual assault cases against minors without significant scrutiny of charges and evidence – The grant of bail by the High Court is vitiated by material misdirection and non-consideration of relevant factors rendering the same manifestly perverse – Appeal allowed setting aside the orders of High Court, with a direction to the second respondent to surrender before the Jurisdictional Court.

The criminal appeal was filed by the appellant challenging the High Court's judgment and order which granted bail to the 2nd respondent (accused) in connection with an FIR involving serious offences under Sections 65(1), 74, 137(2) and 352 of the Bharatiya Nyaya Sanhita, 2023 and Sections 5(l), 6, 9(g) and 10 of the Protection of Children from Sexual Offences Act, 2012.

The dispute arose from allegations that the 2nd respondent and his associates repeatedly sexually assaulted a 14-year-old minor victim under the threat of a firearm and recorded the acts for the purpose of blackmail. While the Trial Court had initially rejected the bail application after considering the victim's statement, the High Court subsequently enlarged the respondent on bail, leading to this appeal seeking the cancellation of that bail.

The appellant contended that the High Court ignored the gravity of the heinous offences and failed to notice that a chargesheet had already been filed, while the 2nd respondent argued the case was a malicious attempt to criminalize a consensual acquaintance.

The Hon'ble Supreme Court noted that the High Court failed to account for the statutory rigour of the POCSO Act and the material evidence, including the victim's statement under Section 183 of the BNSS and corroborating medical reports. The Court observed that in serious sexual offences involving children, the safety of the victim and the risk of witness intimidation are paramount, particularly as the victim and the accused reside in the same locality. Citing precedents like *Bhagwan Singh v. Dilip Kumar*, the Court reiterated that bail granted without due consideration of material factors or the nature of the crime results in a miscarriage of justice. Ultimately, the appeal was allowed, the High Court's order was set aside, and the respondent's bail was cancelled with a direction to surrender within two weeks.

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HIGH COURT – CIVIL CASES

R.Sheela & Another Vs. Maragatham & Ors. [CRP. No.4310 of 2025 and CMP. No.22120 of 2025] [2025(6) MLJ 53]

Date of Judgment: 26.09.2025

This Civil Revision Petition filed by the defendants 1 and 2 as against the order passed by the XXIII Assistant Judge, City Civil Court for seeking to set aside the order.

The plaintiffs filed the Suit seeking for declaration declaring that the 1st plaintiff is the legally wedded wife of late P.Rajasekaran and that the plaintiffs 1 to 4 are the legal heirs of late P.Rajasekaran and consequently directing the 1st defendant to receive the terminal benefits of late P.Rajasekaran from the defendants 3 and 4 and pay the same to the plaintiffs.

The defendants 1 and 2 filed application under Order VII Rule 11(d) CPC to reject the plaint on the ground that the Suit for declaration in respect of matrimonial dispute as per proviso under Section 8 of the Family Courts Act, the jurisdiction of the Civil Court is ousted.

The Court below dismissed the application holding that the dispute between the parties can be resolved on the basis of evidence and the Court below having concurrent jurisdiction can entertain the Suit and it is not barred under Section 8 of the Family Courts Act.

The petitioners submitted that declaration as to the validity of marriage and matrimonial status is within the exclusive jurisdiction of the Family Court under Section 8 of the Family Courts Act and the relief sought pertains to declaration that the 1st plaintiff is the legally wedded wife and the same has to be decided only by the Family Court.

The respondents submitted that the Suit is not filed for dissolution of marriage but only for declaration of legal character under Section 34 of the Specific Relief Act and

Section 8 excludes Civil Court jurisdiction only in respect of suits between parties to a marriage for annulment or dissolution or restitution or judicial separation and does not create any bar if a Suit is filed for declaration as to legal character of a marriage and when the suit is not between husband and wife the Family Court will not have exclusive jurisdiction.

The Court considered Sections 7 and 8 of the Family Courts Act and the decision in R.Kasthuri and others v. M.Kasthuri and others and found that there is no family dispute between the plaintiffs and defendants 1 and 2 and the dispute arose after the demise of Rajasekaran to whom both claimed to be married and the dispute is purely a civil dispute and has no bearing on any dispute within a family which needs to be resolved by a special procedure under the Act and can only be resolved on the basis of evidence to be tendered by the parties.

The Court held that the suit not being covered under Section 7 of the Family Courts Act cannot be said to be barred under Section 8 for Civil Courts to exercise jurisdiction.

While dismissing the Civil Revision Petition, the Court held that the petition lacks merit and confirmed the order of the Civil Court.

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M.Sasankan & others Vs. D.Muthuganesan & others [S.A.(MD).No.1203 of 2005 and CMP(MD).No.5705 of 2018] [2025 (5) L.W. 353]

Date of Judgment: 04.11.2025

This Second Appeal filed by defendants 1 to 4 as against the judgment on the file of the Subordinate Judge, Ramanathapuram confirming the preliminary decree and judgment on the file of the District Munsif, Ramanathapuram for seeking to set aside the same.

The plaintiffs filed the suit seeking partition of 1/4th share in the suit property claiming that it was the self-acquired property of the deceased owner who died intestate leaving daughters and a son, and that the patta was mutated in the son's name only because he was the male heir but he had no exclusive right. After his death, his legal heirs attempted to alienate the property which led to the suit. The defendants admitted the property was self-acquired but contended that the owner had died before 1956 and therefore the daughters' heirs were not entitled to any share; they also pleaded long exclusive possession and ouster.

The trial Court granted a preliminary decree for partition holding that the defendants had not established exclusive right, without deciding the dispute regarding the date of death. The first appellate Court relied upon the municipal death certificate showing death on 04.04.1958 and held that since death occurred after commencement of the Hindu Succession Act, the plaintiffs were entitled to 1/4th share, also finding that adverse possession was not proved.

Before the Court, the appellants argued that both Courts below failed to consider conflicting documents regarding the date of death, namely different certificates and a registered mortgage deed executed in 1950 reciting that the owner had already died. They contended that determination of the date of death was crucial because if death occurred before 1956 daughters would not be entitled to share when a son existed, and that the Courts erred in relying only on one document without analyzing others. The respondents argued that the municipal death certificate established death in 1958 and that the defendants failed to prove ouster, and further contended that the mortgage deed could not be relied upon.

The Court found there was no dispute that the property was self-acquired. It noted that multiple conflicting documents were produced regarding the date of death. On examination of the registered mortgage deed of 31.07.1950, it observed that the son had dealt with the property describing himself as son of the deceased owner and tracing title through the father's sale deed. The Court held that when a registered document dated 1950 records that the father had already died, it establishes that death occurred prior to that date, and therefore it was safer to rely on that document rather than municipal certificates.

The Court then applied the law governing succession prior to the Hindu Succession Act, 1956, noting that under Mitakshara law sons rank in the first order while daughters rank in the fifth order, and under the Hindu Women's Rights to Property Act, 1937 the widow's rights were improved but not those of daughters. Therefore, when a father died before 1956 leaving a son, daughters would not inherit his self-acquired property unless they were sole surviving heirs. It held that the decision cited by the plaintiffs concerning daughters' rights was not applicable because in that case the daughter was the sole surviving heir.

While allowing the second appeal, the Court held that the Courts below had not properly appreciated that the owner had died prior to commencement of the Hindu Succession Act, 1956 and that since the son was alive on that date the daughter was not entitled to a share, and accordingly set aside the judgments and decrees of the Courts below.

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Karthik Nagaraj represented by his General Power of Attorney Agent Vs. Rasika Balachander[C.M.A.No.1303 of 2025 and C.M.P. No.11038 of 2025] [2025-5-L.W. 1]

Date of Judgment: 17.09.2025

This Civil Miscellaneous Appeal has been filed by the appellant as against the order of the Family Court dismissing his petition seeking to set aside the earlier order granting permanent alimony and directing execution of release deed, for seeking rescission of those directions under Section 25(3) of the Hindu Marriage Act.

The appellant had earlier obtained a decree of divorce, and during those proceedings the respondent had obtained an order for permanent alimony and execution of a release deed in respect of a property. That order was modified in an earlier appeal whereby the amount was reduced but the direction regarding execution of release deed was confirmed, with liberty given to the appellant to approach under Section 25(3) based on subsequent events. He thereafter filed a petition alleging that the respondent was in a live-in relationship after divorce and therefore had not remained chaste, seeking rescission of the earlier alimony order and related relief. The Family Court dismissed the petition holding that once permanent alimony was granted as a lump sum, it could not be set aside and only future maintenance could be rescinded.

The issue considered was whether the appellant was entitled to rescind the earlier order granting maintenance and property relief on the ground that the respondent had not remained chaste. The Court examined Section 25 of the Hindu Marriage Act and noted that it empowers the Court to order payment of maintenance as a gross sum or monthly or periodical sum, and further empowers the Court to vary, modify or rescind such order if the party in whose favour it was made remarries or, if a wife, has not remained chaste, or if a husband has had sexual intercourse outside wedlock. The Court held that the Family Court failed to properly consider the wording of Section 25(1) which uses the expression "gross sum or such monthly or periodical sum," and that Section 25(3) applies to any order under Section 25(1) irrespective of whether payment is lump sum or periodic.

The Court analyzed precedents relied upon by both sides. It disagreed with the view that permanent alimony once paid cannot be rescinded, stating that such interpretation is against the provisions of Section 25 because the statute does not use the expression "permanent alimony" but instead refers to maintenance payable either as gross sum or periodic payments, and conditions in Section 25(3) apply equally. It also held that the conditions imposed by Section 25(3) apply to both spouses and cannot be ignored, and that the intention of the legislature is that any order under Section 25(1) remains subject to those conditions even after decree. The Court accepted the view taken in a prior Division Bench decision that if a party in whose favour an order was passed has remarried or breached conditions, the order granting maintenance can be modified or rescinded.

On facts, the Family Court itself had recorded that the respondent was in a live-in relationship after the decree and that finding had not been challenged. Since that amounted to breach of the conditions under Section 25(3), the respondent was not entitled to further payment. The Court held that the earlier reasoning of the Family Court that permanent alimony could not be rescinded was erroneous and unsustainable.

While allowing the appeal, the Court held that the order of the Family Court was liable to be set aside, and modified the earlier order granting maintenance to the extent that the amount already paid need not be disturbed but the remaining amount and direction for execution of release deed stood rescinded on account of breach of conditions under Section 25(3) of the Hindu Marriage Act.

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T.S.Ayyappan Vs. M/s.Khadijabai Maternity Home, A Charitable Trust registered under Bombay Public Trusts Act,1950 [C.R.P. (NPD) No.4416 of 2025 and C.M.P. No.22595 of 2025] [2025 (6) CTC 53]

Date of Judgment: 10.10.2025

This Civil Revision Petition filed by the tenant as against the order passed in E.A. in E.P. arising out of R.L.T.O.P. for seeking to set aside the impugned order questioning the executability of the eviction decree. The respondent landlord, a charitable trust registered under the Bombay Public Trusts Act, had filed the R.L.T.O.P. seeking eviction of the tenant on the ground of failure to execute a tenancy agreement, eviction was ordered, and execution was thereafter initiated for delivery.

The tenant objected to execution contending that the landlord trust had not obtained prior permission from the Charity Commissioner under Sections 50 and 51 of the Bombay Public Trusts Act rendering the decree a nullity, and that the property description in the execution schedule did not tally with the actual physical layout making identification impossible for execution. The landlord contended that procedures were duly followed, the trust deed had been filed and marked, similar objections had already been dismissed attracting res judicata under Section 11 C.P.C., and that the tenant being a mere occupant had no locus standi to challenge compliance with internal trust regulations at the execution stage.

It was contended for the tenant that since the trust is governed by the Bombay Public Trusts Act and registered at Bombay it was obligatory to obtain prior permission of the Charity Commissioner before initiating eviction and in the absence of such sanction the entire proceeding is void, and that the property though at Chennai continues to be governed by the Bombay Act as the trust is administered and registered at Bombay. Per contra it was submitted that eviction proceedings were instituted validly under the TNRRLT Act before the competent Rent Court, the decree has attained finality, and the execution court rightly held it cannot go behind the decree, and that prior sanction under the Bombay Act does not extend to an action for eviction governed by State tenancy law particularly when the property is situated within Tamil Nadu.

The Court observed that the jural relationship of landlord and tenant stands established, that the Bombay Public Trusts Act was originally enacted for the composite Bombay Presidency and later adopted by Maharashtra and Gujarat and being a State legislation has no operation de jure outside those States, and that extraterritorial operation of a State enactment is limited to cases having a real and substantial nexus and the situs of the property determines the applicable local law. Since the immovable property is situated at Chennai, tenancy and eviction are governed exclusively by the Transfer of Property Act and the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, and property owners in Tamil Nadu including charitable institutions are bound to follow local tenancy enactments. The Court held prior sanction of the Charity Commissioner under the Bombay Public Trusts Act is not a condition precedent for instituting eviction proceedings concerning property located outside Maharashtra and Gujarat and that supervisory powers under that Act are confined to trust properties situate within that State.

Relying on the decision in State of Bihar Vs. Charusila Dasi the Court noted that a State law may operate upon property outside its territory only if there is a real and substantial nexus and that the ratio recognizes extraterritorial effect only to that extent and no further. The territorial nexus doctrine cannot justify enforcement of a State statute in respect of matters wholly unconnected with that State and while the Charity Commissioner may possess supervisory powers over administration and accounts, regulation, tenancy, and eviction relating to immovable property situated in Tamil Nadu are subject to jurisdiction of Tamil Nadu authorities and governed by the TNRRLT Act. As to discrepancy in property schedule, identity of the premises is not in dispute and description containing the specific shop number is sufficient for execution and a decree passed by a competent court after contest cannot be defeated on the basis of any curable clerical or descriptive error. Once it is concluded that the Bombay Public Trusts Act has no application to property situated at Chennai, decisions of other High Courts relating to prior permission for properties within their territorial limits are irrelevant and not taken into consideration.

While dismissing the Civil Revision Petition, the Court held that there is no error or illegality in the impugned order of the executing court and confirmed the order, with no costs and the connected miscellaneous petition closed.

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Thavasimuthu Vs. Ramasamy S/o. Pachamuthu gounder, Erode District & others [S.A. No. 240 of 2014 and M.P. No. 1 of 2014] [2025-5-L.W.221]

Date of Judgment: 25.10.2025

This Second Appeal filed by the plaintiff as against the judgment and decree confirming dismissal of his suit by the Trial Court and First Appellate Court for seeking declaration of easementary right over the suit cart track and permanent injunction restraining the defendants from interfering with his right of user. The plaintiff claimed that under a sale deed he purchased property together with mamool right of usage over a cart track and later obtained full right through a release deed, and therefore asserted easementary right by prescription, by grant, and by necessity. The defendants denied any such right and stated that the suit cart track was formed by their predecessor using lands obtained through purchases and an exchange deed and that it is their absolute property; they also contended that the plaintiff had an alternative pathway and had not used the suit track for the statutory period.

The Court considered the substantial questions of law framed at admission as to whether the Courts below failed to properly appreciate the easementary right under the documents relied on by the plaintiff and whether their findings were perverse for improper appreciation of oral and documentary evidence. The dispute concerned only the use of the suit cart track and the burden lay upon the plaintiff to prove that the cart track referred to in his sale deed was the same as the suit cart track. The Court examined the claim of easement by prescription under Section 15 of the Indian Easements Act, 1882, which requires peaceable enjoyment, as of right, openly and continuously for twenty years. It found that the defendants established that the track mentioned in the plaintiff's document was not the suit cart track and that the suit cart track came into existence after an exchange deed executed for forming such track. Since the plaintiff purchased his property later and filed suit before completion of twenty years even if reckoned from formation of the track, the statutory requirement was not satisfied.

As to easement by grant, the Court held that the recitals in the plaintiff's document did not relate to the suit cart track and that his vendor neither had right over it nor was a common owner with the defendants and therefore could not have conveyed such right. On easement by necessity, the Advocate Commissioner's reports showed another cart track providing access to the road, and therefore the plea of necessity could not stand. The objection that later Commissioner reports should not have been relied upon was rejected because the delay had been explained, all reports were admitted without objection, their correctness was not challenged, and the later inspection was only to supplement earlier particulars and not inconsistent with them.

Relying on the principle stated in Justiniano Antao & Ors. v. Smt. Bernadette B. Pereira that where access exists through another side there is no reason to use another's property and that prescription requires open, peaceful and uninterrupted use for twenty years, the Court held that the plaintiff failed to justify any easement whether by prescription or necessity and that the concurrent findings of the Courts below were based on proper appreciation of evidence and in conformity with statutory provisions and disclosed no perversity or substantial question of law.

While dismissing the Second Appeal, the Court held that the substantial questions of law were answered against the plaintiff and the judgments and decrees of the Trial Court and First Appellate Court were confirmed, with costs.

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HIGH COURT – CRIMINAL CASES

Rajunarayanan S/o. Periyakaruppan & others Vs. State represented by the Inspector of Police, District Crime Branch, Sivagangai & another [CRL OP.(MD) No.21347 of 2024 and Crl. M.P. (MD) No.5645 of 2025] [2025 (3) MWN(Cr.) 573]

Date of Judgment: 24.07.2025

This Criminal Original Petition has been filed by the petitioners as against the proceedings on the file of the Judicial Magistrate for seeking to quash the same. The prosecution case is that the defacto complainant, Director of a construction company at Singapore, appointed A1 as 'Accountant System Manager' and gave cheque signing power, and later found during audit that A1 misappropriated funds and transferred amounts from the company account to accounts of A1 to A6 and purchased properties. A complaint was lodged and police registered a case for offences under Sections 406, 468, 471, 420, 120-B and 34 of IPC and filed final report which was taken cognizance by the trial Court.

The petitioners contended that the complaint is false, no bank statement of the defacto complainant was collected to show any transfer, the alleged credits were only internal transfers within their own accounts, and no material exists to show unauthorized withdrawal, forged document, dishonest inducement, conspiracy or common intention. They stated that the prosecution failed to produce any material to substantiate the allegation that amounts were transferred from the complainant's account and that the charge sheet is unsupported by records.

The prosecution and defacto complainant contended that A1 misappropriated Rs.3,50,00,000/- and transferred funds to accounts of family members and purchased properties, and that investigation collected materials and disclosed prima facie case. They relied on judgments stating quash should not be granted unless there are compelling circumstances.

The Court examined the records and found that though account details of accused were collected, the investigation agency failed to collect bank statements of the defacto complainant, which are basic documents to substantiate the allegation of transfer. The Court held that when prosecution alleges specific transactions from a particular account on particular dates, those documents must be produced; without them the basis of the case is not established and trial would be a futile exercise. It further held that essential ingredients of Sections 406, 420, 468, 471, 120-B and 34 IPC are not made out because there is no material showing entrustment and misappropriation, dishonest inducement, forged document, use of forged document, agreement to commit illegal act, or common intention. It observed that mere relationship or purchase of properties is not an offence and that proceedings appear manifestly attended with malafide and fall within the principles for quashing.

While allowing the Criminal Original Petition, the Court held that there are no prima facie materials to attract the offences under Sections 406, 468, 471, 420, 120-B and 34 of IPC as against the petitioners and quashed the pending proceedings.

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Joseph Raja Vs. The Inspector of Police, All Women Police Station, Rajapalayam [Crl.A(MD)No.436 of 2023]

Date of Judgment: 10.02.2026

The criminal appeal has been filed by the appellant challenging the judgment and order of the Trial court, which convicted him for the offences punishable under Sections 5(f) and 5(k) r/w Section 6 of the POCSO Act, as well as Section 92(d) of the Rights of Persons with Disabilities Act, 2016, sentencing him to life imprisonment for the remainder of his natural life.

The prosecution's case was that on May 3, 2022, the victim's mother left her 17-year-old daughter, who suffered from a moderate intellectual disability (IQ 36) and speech impairment, under the care of the appellant, a pastor at their local church. Upon her return, the mother found the victim in a distressed state with her clothes disarrayed, and the victim later disclosed through words and actions that the appellant had subjected her to aggravated penetrative sexual assault. After an eight-day delay attributed to social stigma and helplessness, a formal complaint was lodged on May 11, 2022.

The appellant contended that the prosecution failed to examine independent eyewitnesses, the medical evidence did not show genital injuries or traces of intercourse and that the eight-day delay in filing the complaint was fatal to the case. Conversely, the respondent submitted that the victim's testimony was categorical and corroborated by her mother, and that delay is immaterial in POCSO cases.

The Hon'ble High Court observed that the victim's testimony was reliable and unshaken, finding that a girl with her level of mental disability could not be successfully tutored to give false evidence. The Court held that the absence of physical injuries is not conclusive of the non-occurrence of the sexual intercourse. Regarding the eight-day delay, the Court ruled it wholly immaterial, recognizing that victims and their parents must overcome significant psychological and social barriers, including the deep-rooted stigma and moral judgment attached to such disclosures. The Court further noted that the management of the church by the appellant's family was established, satisfying the requirements of Section 5(f) of the POCSO Act, and that the appellant failed to rebut the statutory presumption of guilt under Section 29 of the POCSO Act, and that minor discrepancies in evidence do not shake a case that possesses a "ring of truth". Ultimately, the appeal was dismissed, and the conviction and sentence were sustained.

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Bhagavathiraj Vs. State represented by the Inspector of Police, All Women Police Station, Theni [Criminal Appeal (MD) No. 120 of 2025)]

Date of Judgment:10.02.2026

The criminal appeal was filed by the appellant (Accused No. 2) challenging the judgment of the Trial Court, which convicted him for offences punishable under Section 5(m) r/w 6 of the POCSO Act and Section 376-AB of the IPC. The primary legal challenge concerned the validity of a joint trial conducted for multiple accused who committed distinct offences against the same minor victim at different times and places.

The prosecution's case was that the minor victim girl was subjected to aggravated penetrative sexual assault by three accused persons (the third accused died during investigation) over a period of one year. The Trial Court conducted a joint trial for the appellant as well as the first accused and found both of them guilty, and sentenced them to life imprisonment with a fine of Rs. 50,000/- each.

The appellant contended that according to Section 218 of the Cr.P.C., separate trials are the rule for distinct offences, and a joint trial under Section 223 requires the accused's consent or a showing of the "same transaction," neither of which was present here, and further being questioned under Section 313 Cr.P.C. with the same questionnaire as the co-accused prevented them from making a proper statement. Conversely, the respondent submitted that since the victim was the same and suffered overt acts from both, no prejudice was caused.

The Hon'ble High Court noted that while separate trial is the general rule, a joint trial is permissible as a matter of judicial discretion under Sections 219-223 of the Cr.P.C. if it does not cause a miscarriage of justice. The Court applied the "same transaction" test, observing that proximity of time, place, and a commonality of purpose (exploiting the victim's circumstances) justified the trial court's discretion. The Court highlighted that when the Courts deal with an issue of child abuse, it must apply the laws in protecting the best interest of child, since interest of the child is paramount and not the interest of perpetrator of the crime. The approach must be child-centric. The Court further observed that the appellant did not object to the joint trial at the outset and had even adopted the cross-examination of the first accused, thereby failing to prove any actual prejudice. Citing Section 464 of the Cr.P.C., the Court held that a misjoinder of charges does not invalidate a sentence unless a failure of justice is established.

Ultimately, the appeal was dismissed, confirming the conviction and sentence imposed by the Trial Court.

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M/s. Mediaone Global Entertainment Ltd. Rep By Its Authorised Signatory, J.Murali Manohar & Anr. Vs. M/s. Ad Bureau Advertising Pvt. Ltd. Rep By Mr.Abirchand Nahar [CRL. R.C. No. 1636 of 2023]

Date of Judgment: 06.02.2026

This Criminal Revision Case was filed by the petitioners challenging the judgment from the First Appellate Court, which had confirmed their conviction under Section 138 of the Negotiable Instruments Act. The dispute originated from a Rs. 5 Crore cheque issued in December 2014 following monetary assistance provided for the post-production of the film 'Kochadaiiyaan'. The lower courts found the petitioners guilty, sentencing the second petitioner to six months of imprisonment and to pay a compensation of Rs.7,70,00,000/-

The petitioners contended that the cheque was issued as a security and was misused by the respondent, asserting that their total payments exceeded the original Rs. 10 Crore loan. Conversely, the respondent submitted that the cheque was specifically issued to cover a 20% sales commission they were entitled to for the film's rights.

The High Court observed significant inconsistencies in the respondent's stand, noting that the primary Memorandum of Understanding (Ex.P2) lacked any reference to a 20% profit-sharing agreement. The Court further found that the respondent failed to prove a legally enforceable debt of Rs. 5 Crores existed at the time the cheque was presented. Despite these evidentiary gaps, the Court noted that a borrowing of Rs. 10 Crores was undisputed, and after accounting for an admitted repayment of Rs. 8.74 Crores, a clear liability of Rs. 1.26 Crores remained. The Court reiterated that the gravamen of Section 138 is compensatory rather than punitive, aiming to ensure the recovery of money through summary proceedings. Accordingly, the Court partly allowed the revision, confirming the conviction but modifying the sentence. The petitioners were directed to jointly pay a fine of Rs. 2.52 Crores (representing twice the actual outstanding debt) as compensation, with a default sentence of six months of simple imprisonment for the second petitioner.

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Uma Maheshwari Vs. The Principal Secretary to Government, Government of Tamil Nadu, Home, Prohibition and Excise Department, Secretariat, Chennai and Ors. [H.C.P.(MD)No.1423 of 2024] [2025-2-L.W.(Crl.) 873]

Date of Judgment: 10.10.2025

This Habeas Corpus Petition has been filed by the petitioner / wife of detenu as against the Detention Order passed by the second respondent seeking to quash the same as illegal and direct the respondents to produce the person of the detenu and set him at liberty.

The detenu had been detained holding him to be a "Sexual Offender" as contemplated under Section 2(ggg) of Tamil Nadu Act 14 of 1982. The ground raised was that the detaining authority relied on a similar case where bail had been granted by the Special Court for Trial of Cases under the POCSO Act, Tirunelveli, whereas in the present case the bail petition was still pending, and therefore there was no likelihood of release on bail. The Court held that an exactly similar case can never be found and that the authority can consider cases involving offences of similar nature and infer possibility of bail. The Court therefore rejected that ground. It also examined the records relating to the representation submitted by the detenu and found that it had been examined at all levels without delay.

During hearing, the Court noted that though investigation had been completed, charge sheet filed, and cognizance taken by the Special Court for POCSO Act Cases, Tirunelveli, the trial had not commenced. The Court called for affidavits from police officials regarding steps taken to instruct investigating officers to ensure that evidence of the victim child and defacto complainant are recorded within the period of detention, observing that trial being dragged till detention period ends defeats the purpose of detention order. Statistics filed showed large numbers of pending cases and revealed that except in a handful of cases the victim child had not been examined within 30 days from the date of cognizance as mandated under Section 35 of the POCSO Act, 2012.

Reliance was placed on judgments of the Supreme Court of India which clarified that Section 35 requires recording of evidence of the child within thirty days and completion of trial within one year as far as possible, and directed that High Courts ensure POCSO cases are tried by Special Courts, that courts be sensitised, unnecessary adjournments avoided, committees constituted to monitor progress, and police ensure proper investigation and witness production. Another judgment was cited stating that if evidence is not recorded within thirty days it does not lose sanctity, but reasons must be recorded and must be strong enough in law.

On examining the data, the Court found total absence of compliance with Section 35 in districts under jurisdiction and held it imperative that a circular be issued reminding Presiding Officers of Special Courts to comply with the provision in letter and spirit. It called upon the Registrar General of the Madras High Court to reissue an earlier circular prescribing best practices for handling POCSO cases, and requested the Director of the Tamil Nadu State Judicial Academy to conduct special training sessions for Presiding Officers regarding recording evidence within thirty days and prompt cognizance of charge sheets. The reports and statistics submitted by police officials were taken on record and directed to be circulated to all concerned officials.

While dismissing the Habeas Corpus Petition, the Court held that the ground regarding likelihood of bail was unsustainable, that representation had been considered without delay, and issued directions and observations to ensure compliance with Section 35 of the POCSO Act and proper conduct of trials in such cases.

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