TAMIL NADU STATE JUDICIAL ACADEMY

** VOL. XX— PART 1 — JANUARY 2025**

IMPORTANT CASE LAWS

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SUPREME COURT – CIVIL CASES

Punjab National Bank Vs. Atin Arora & Anr. [Special Leave Petition (Civil) Nos. 15347-15348 of 2020]

Date of Judgment: 03.01.2025

Section 21 of Civil Procedure Code – Objections as to place of suing shall not be allowed unless such objections is taken in the Court/Tribunal of first instance at the earliest possible opportunity.

The Appeal has been filed by the Appellant/ Petitioner against the order passed by the High Court in setting aside the order passed by NCLT, Kolkata Bench.

The facts of the case was that the Appellant filed an Application under section 7 of the Insolvency and Bankruptcy Code, 2016 for initiating Corporate Insolvency Resolution Process (CIRP) against the Respondent. The said application was admitted by NLCT, Kolkata Bench. Thereafter, an application was filed by the Respondent before the High Court to set aside the order of NCLT on the ground that it had no jurisdiction to decide the said Application as its registered office was changed from Kolkata to Odisha. The Hon'ble High Court allowed the said Application. Aggrieved by the same, the present Appeal was filed by the Appellant before the Hon'ble Apex Court.

The major point of determination before the Hon'ble Apex Court was whether the objection regarding the place of suing was raised in accordance with Section 21 of the CPC. Referring to judgments *in Harshad Chiman Lal Modi Vs. DLF Universal Ltd. and Subhash Mahadevasa Habib Vs. Nemasa Ambasa Dharmadas*, the Hon'ble Apex Court held that objections regarding place of suing must be taken at the earliest and cannot be allowed to be taken at a subsequent stage. The Apex Court observed that the High Court, while exercising its discretion, overlooked the provisions of Section 21 of the Code of Civil Procedure, 1908, whose principles and rule should have been applied in the present case. Thus, the Apex Court allowed the Appeal and set aside the order of the High Court.

Gopal Krishan & Ors. Vs. Daulat Ram & Ors. [Civil Appeal No. 13192 of 2024]

Date of Judgment: 02.01.2025

Section 63 (c) Indian Succession Act, 1925 – scenarios for a valid attestation contemplated under section 63(2) of Indian Succession Act has to read disjunctively - attesting witness to a will is only required to see the testator sign or affix their mark to the will – no additional conditions for attestation.

The present Appeal has been filed by the Appellant/Defendants against the Judgment of the High Court which had set aside the Judgment of the lower Appellate Court in decreeing the suit filed by the Plaintiff seeking declaration of title and to declare the will to be forged and fabricated.

The facts of the case was that the Deceased had executed a will in favour of Appellant. The Appellant was a nephew of the deceased. The Deceased had no children. The Appellant sold the suit property to third parties. The Respondents are natural legal heirs of the testator. The Respondents filed a suit for declaration of title as to 1/4 share and to declare the will to be forged and fabricated. Raising suspicion about deceased physical and mental capacity and questioning the irregularities, the trial court invalidated the will and decreed the suit. On Appeal by the Defendants, the first Appeal was allowed holding that the will was valid. Thereafter, on second appeal before the Hon'ble High Court, the High Court set aside the order of the lower Appellate Court and restored the Judgment of the trial court holding the will as invalid. Aggrieved by the same, the present appeal was filed by the Defendants.

The point that fell for consideration was whether scenarios for a valid attestation (1) witness sees the testator sign or affix their mark to the will (2) A witness observes another person signing the will on behalf of the testator in the testator's presence and direction and (3) witness receives a personal acknowledgment of the testator's signature or mark contemplated under section 63(2) of Indian Succession Act has to read as conjunctively (all conditions to be met) or disjunctively.

The Honble Apex Court after deliberations and reference to the dictum laid down in *Meena Pradhan Vs. Kamla Pradhan (2023) and Shivakumar Vs. Sharanabasappa (2021)* held the conditions are disjunctive, with the word "or" clearly indicating alternative conditions and further held that witnesses only need to satisfy one of the enumerated scenarios for the attestation to be valid.

Noting that witness in the case testified that he saw deceased affix his thumb impression on the will, the Hon'ble Apex Court while allowing the Appeal held that the will was valid and restored the Judgment of the lower Appellate Court.

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Sanjay Sharma Vs. Kotak Mahindra Bank Ltd. & Ors. [Special Leave Petition (Civil) No. 330/2017]

Date of Judgment: 10.12.2024

Section 53 of Transfer of Property Act, 1882 – Section 17 of Registration Act, 1908 - A sale by way of public auction cannot be set aside until there is any material irregularity or illegality committed in holding the auction or if such auction was vitiated by any fraud or collusion - ownership claim cannot be made based on an unregistered agreement to sell - ownership can be transferred only through a registered sale deed.

Section 13(8) of The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act (SARFAESI) Act, 2002 - right of redemption is available only until the public auction is conducted.

The present Appeal has been filed by the Appellant/Auction Purchaser challenging the order of the High Court which had set aside the order of the Appellate Tribunal by setting aside the auction and allowed the 2nd Respondent to redeem the mortgage.

The facts of the case was that the 1st Respondent took possession of the suit property through Court Receiver under SARFAESI Act. The 2nd Respondent claiming ownership of suit property through an unregistered agreement to sell and registered power of attorney and filed application before DRT. The 2nd respondent was directed to deposit Rs.2,00,000/-. But 2nd respondent did not deposit the amount. Final order was passed by DRT directing 2nd respondent to deposit Rs. 2,50,000/- within 60 days. Thereafter 1st Respondent conducted the Auction. Appellant had purchased the suit property in public auction under SARFAESI Act and sale certificate was issued. 2nd Respondent filed appeal before the Appellate Tribunal contending that he was not summoned in the proceedings. Appellate Tribunal remanded the matter. DRT allowed the case of the 2nd respondent and set aside the auction holding that 2nd respondent had the right of redemption. Therefore the appellant filed appeal before the Appellate

Tribunal wherein the order of the DRT was set aside and auction sale was restored. 2nd respondent preferred appeal before the Hon'ble High Court. The Hon'ble High Court allowed the appeal and set aside the auction and directed the 2nd Respondent to pay the sale amount with interest to the appellant and allowed the 2nd respondent to redeem the mortgage. Aggrieved by that order, the present appeal was filed. The questions arose for determination are sanctity of public auction and right of redemption after auction and whether unregistered document can confer ownership. The Hon'ble Supreme Court observed that appellant is under an obligation to exercise due diligence exercise in respect of the secured asset and ascertain the encumbrance accrued therein and in absence of registration of agreement, appellant could not have detected any interest created in favour of 2nd respondent. Further it observed that the 2nd respondent was given opportunities to deposit the amount. The Hon'ble Supreme Court reiterated that a sale by way of public auction cannot be set aside until there is any material irregularity or illegality committed in holding the auction or if such auction was vitiated by any fraud or collusion. The Hon'ble Apex Court ruled that ownership claim based on an unregistered agreement to sell as invalid and ownership can be transferred only through a registered sale deed as contemplated u/s 54 of Transfer of Property Act and Section 17 of the Registration Act. The Hon'ble Supreme Court also held that right of redemption is available only until the public auction is conducted. Accordingly, the Hon'ble Apex Court allowed the appeal and set aside the order of the Hon'ble High Court and restored the order of the Appellate Tribunal by upholding the auction sale.

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H.Guruswamy & Ors. Vs. A. Krishnaiah Since Deceased By Lrs. [Civil Appeal No. 317 of 2025]

Date of Judgment: 08.01.2025

Order 43 Rule 1 - Condone Delay Application - Concepts such as "liberal approach", "Justice oriented approach", "substantial justice" should not be employed to frustrate or jettison the substantial law of limitation - rules of limitation are not meant to destroy the rights of parties but are meant to see that parties do not resort to dilatory tactics - length of the delay as relevant matter should be taken into consideration - court must not start with the merits of the main matter while adjudicating delay condone applications but ascertain the bona fides of the explanation offered and only if sufficient cause assigned and opposition of the other side is equally balanced court may bring into aid the merits of the matter for the purpose of condoning the delay.

The present Appeal has been filed by the Appellant/Defendant against the Judgment of the High Court which had set aside the order of the Trial Court by allowing delay of 6 years (about 2200 days) in filing a recall application.

The facts of the case was that the Respondent/plaintiff filed a suit for possession. It was dismissed for default in the year 1983. Subsequently, the Respondent filed a restoration application during the year 1984. It was allowed. Thereafter, one of the defendant in the suit died. Despite opportunities, the respondent did not take steps to bring the legal heirs of the deceased defendant on record. Hence, the suit was dismissed as abated in the year 2000. Thereafter, the Respondent filed an application to set aside the abatement and bring the legal heirs on record. The reason stated by the respondent was ailment of wife and that order copy was received during 2005. The said application was dismissed by the trial court with liberty to file application for recall. The Respondent filed appeal against that order before the Hon'ble High Court. It was dismissed. Thereafter, the Respondent filed an application for recall with a delay condonation application to condone the delay of

2200 days before the Trial Court. It was dismissed by the Trial Court as it was barred by limitation. Thereafter, the Respondent preferred an appeal before the Hon'ble High Court and the Court allowed the appeal and condoned the delay. Hence the present appeal.

The Honb'le Apex Court reiterated that concepts such as "liberal approach", "Justice oriented approach", "substantial justice" should not be employed to frustrate or jettison the substantial law of limitation. It further held that rules of limitation are not meant to destroy the rights of parties but are meant to see that parties do not resort to dilatory tactics. The Hon'ble Supreme Court observed that length of the delay is relevant matter which the court must take into consideration while considering condoning the delay. Further it held that court must not start with the merits of the main matter while adjudicating delay condone applications. Duty was also cast on courts to first ascertain the bona fides of the explanation offered and only if sufficient cause was assigned and opposition of the other side is equally balanced then the court may bring into aid the merits of the matter for the purpose of condoning the delay. Thus, the Hon'ble Apex Court allowed the appeal and set aside the order of the Hon'ble High Court and restored the order of the trial court.

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Balbir Singh & Anr Etc. Vs. Baldev Singh (D) Through His Lrs & Ors. Etc. [Civil Appeal Nos. 563-566 of 2025]

Date of Judgment: 17.01.2025

Section 28, 35 (c) of Specific Relief Act, 1963 – power is discretionary - court cannot ordinarily annul the decree once passed by it – suit for specific performance does not come to an end on passing of a decree and the court which had passed the decree for specific performance retains the control over the decree even after the decree has been passed - courts have power to extend the time for payment even though the trial court had earlier directed in the decree that payment of balance price to be made by certain date or when application u/s 28 is filed.

The present appeals have been filed by the Appellants/Judgment Debtors/Defendants against the order of the High Court, which rejected all four revision applications filed by the original defendants through a common order, thereby affirming with the order passed by the executing court in permitting the original plaintiff to deposit the balance sale consideration and rejecting the application filed by the Appellants under Section 28 of the Specific Relief Act, 1963, for rescission of the contract.

The facts of the case was that the Plaintiff had filed 4 suits for specific performance of agreement to sell. All suits were decreed directing the plaintiff to deposit the sale consideration amount within 20 days and the defendant was directed to execute sale deed. Within 20 days of that decree, defendant filed appeal. The decree was reversed in the first appeal. The Hon'ble High Court of Punjab & Haryana allowed the second appeal and restored the judgment of the trial court. During pendency of SLP (filed by the defendant) before the Hon'ble Supreme Court, plaintiff filed execution petition and an application to deposit the sale consideration amount. It was allowed and plaintiff deposited the amount. Subsequently defendant filed an application u/s 28 of Specific Relief Act to rescind the contract on account of

nonpayment of the balance sale consideration amount. The same was rejected. The revisions filed by the defendant against those orders were dismissed by the Hon'ble High Court. Against those dismissal the present appeal was filed.

The points that fell for determination were the effect of merger of the trial court's decree with that of the decree passed by High Court in second appeals and whether the defendant could have prayed for rescission of contract on the ground that the plaintiff had failed to deposit the balance sale consideration within the stipulated time as prescribed in the original decree.

The Hon'ble Apex Court held that the doctrine of merger is founded on the rationale that there cannot be more than one operative decree and the doctrine of merger applies irrespective of whether the appellate court has affirmed, modified or reversed the decree of the trial court. Further it affirmed that upon the decision of the High Court in the second appeal there was a merger of the judgment of the trial court with that decision and consequently decree of the trial court merges with that of the second Appellate Court decree and it becomes executable and the entitlement of the decree holder to execute the decree of the second appellate court cannot be defeated. Based on the doctrine of merger, the Hon'ble Apex Court concluded that the plaintiff was obliged to deposit the balance sale consideration within 20 days from the date of judgment in second appeal.

Further, the Hon'ble Apex Court held that power u/s 28 of the Specific Relief Act is discretionary and the court cannot ordinarily annul the decree once passed by it and that the suit for specific performance does not come to an end on passing of a decree and the court which has passed the decree for specific performance retains the control over the decree even after the decree has been passed. It was also held that courts have the power to extend the time even though the trial court had earlier directed in the decree that payment of balance sale amount to be made by certain

date and on failure the suit to stand dismissed. Extension of time for making payment does not mean a modification of the decree. The Hon'ble Apext Court concluded that the trial court has power to extend the time after decree or when application u/s 28 is filed. Resultantly, the Hon'ble Supreme Court dismissed the appeals.

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SUPREME COURT – CRIMINAL CASES

Naresh Aneja @ Naresh Kumar Aneja Vs. State of Uttar Pradesh & Anr. [Special Leave Petition (Criminal) No. 1093 of 2021]

Date of Judgment: 02.01.2025

Section 354 IPC – Section 506 IPC - Criminal intimidation arises when the accused intendeds to cause alarm to the victim, though it does not matter whether the victim is alarmed or not.

The present Appeal has been filed by the Appellant/Accused against the Judgment of the High Court which dismissed the quash petition filed by the Accused.

The Appellant was charged by the trial Court under sections 354, 506 of the Indian Penal Code, 1860. In the meanwhile, the Appellant filed a Petition under section 482 of Cr.P.C to quash the chargesheet and sought stay of further proceedings before the Trial Court. However, the High Court observed that there were disputed questions of facts and dismissed the said petition. Hence the present Appeal.

The Apex Court observed that a bare perusal of Section 354, IPC reveals that for it to apply, the offence must be committed against a woman and criminal force must be applied against her and such application of force must be with the intent to outrage her modesty. Further, the Court observed that the contents of the FIR, the statement in the final report of the investigating officer, and the statement u/s 164 Cr.P.C. of the complainant, unambiguously shows that even prima facie ingredients are not met. Moreover, the records were silent with respect to the use of any force, apart from bald assertions of mental and physical discomfort caused to the complainant by the appellant. It is well settled that for mens rea to be established, something more than vague statements must be produced before the court.

The Apex Court observed that for an offence of criminal intimidation to be prima facie established, the intention should be clearly visible, and the same has to be established by the evidence on record. Thus, the Hon'ble Apex Court while allowing

the Appeal held that the FIR, interim investigation report and the chargesheet, in the present case does not disclose any offence having been committed by the appellant.

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Inspector, Railway Protection Force, Kottayam Vs. Mathew K Cherian & Anr. [Criminal Appeal No. 4169/2024]

Date of Judgment: 09.01.2025

Section 143 of the Railways Act, 1989- Offence under Section 143 is a social crime- to be exempt from the application of Section 143, both the status of the person and the nature of the action must be considered.

Two set of appeals has been filed against the order of the High Court whereby criminal proceedings under section 143 of the Railways act,1989 launched against the first Respondent was quashed and the 2nd Appellant was not quashed.

The facts of the case was that one employee named Joby Jose of Kosamattam Finance, a non-banking finance company for which Mathew/1st Respondent was the Managing Director, was arrested and 17 pieces of evidence were seized. The offence alleged against him is that he was the Managing Director. He was accused of operating an unauthorized business for procurement and supply of railway tickets creating fraudulent user IDs with the Indian Railway Catering and Tourism Corporation web portal to procure and peddle railway tickets for profit, without being an agent authorized to procure and supply railway tickets and aggrieved, Mathew moved the High Court under Section 482, Code of Criminal Procedure, 1973 seeking quashing of the proceedings. The High Court, vide the impugned order, quashed the criminal proceedings and therefore the Inspector, RPF was the 1st Appellant before the Apex Court. In the connected appeal, the case of the prosecution was that Ramesh and his son are the owners of "Big Top Travels" which is an authorised agent for railway e-tickets. A criminal case was registered against Ramesh under Section 143 of the Act on the basis of a search and seizure operation conducted by a special team of the RPF in the shop premises of Ramesh. The offence alleged against him is that he has been supplying e-tickets to various customers, and that these e-tickets had been booked through multiple user IDs. The Hon'ble High Court refused to quash the criminal proceedings initiated against Mr. Ramesh.

The Apex Court observed that the ambit of Section 143 of the Act is to restrict entities which are not under the disciplinary control of or are not authorised by the railways to conduct the business of procurement and supply of railway tickets. Further, section 143, prohibits any person, other than a railway servant or an authorised agent, to conduct the business of procurement and supply of railway tickets. The provision does not specify the modalities of the procurement and supply. Section 143, on its plain language, prohibits any person, other than a railway servant or an authorised agent, to conduct the business of procurement and supply of railway tickets. The provision does not specify the modalities of the procurement and supply. The nature of allegations against Ramesh/2nd Appellant in the connected appeal, though serious, Section 143 would not be attracted insofar as he is concerned. Whereas Mathew not being an authorised agent, has to face the proceedings against him, while Ramesh being an authorised agent, cannot be proceeded against under Section 143 of the Act for alleged breach of any of the terms and conditions of the contract. Thus, the Apex Court quashed the criminal proceedings initialed against Ramesh/2nd Appellant and restored the criminal proceedings imitated against Mathew/1st Respondent.

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Bishwajit Dey Vs. The State Of Assam [Criminal Appeal No. 87 of 2025]

Date of Judgment: 07.01.2025

Section 51 of The Narcotic Drugs And Psychotropic Substances Act, 1985- Seized Vehicle Not Liable To Be Confiscated If Accused Used It Without Owner's Knowledge Or Connivance

NDPS Act Doesn't Bar Interim Release Of Seized Vehicle Pending Disposal Of Criminal Case

The present appeal has been filed against the High Court's decision in upholding the trial court's decision by refusing to allow interim release of the Appellant's seized truck under Sections 451 and 457 of Cr.P.C.

The brief facts of the case was that the appellant, owned a truck financed through monthly installments and was his sole source of income. On April 10, 2023, during a routine naka check, 24.8 grams of heroin was found concealed in the truck, leading to the arrest of the main accused, who boarded the vehicle from Manipur. The appellant and the driver claimed ignorance of the contraband's presence stating that neither he nor his driver was aware that the said main accused was in possession of the said substance and was carrying the same. Placing reliance on the case of *Sunderbhai Ambala Desai V. State of Gujarat (2002),* the appellant sought release of the seized vehicle under CrPC, citing hardship due to its prolonged detention and reliance on the truck for livelihood. Per contra, the Respondent opposed the Appellant's plea stating that interim release of vehicles might lead to misuse and undermine the objectives of the NDPS Act. It added that vehicles used in drug trafficking are integral to the crime and must be retained for evidence and confiscation.

The main issue before the Trial Court was that whether the Vehicle used in the commission of the offence can be handed over to the accused. It is a well settled

proposition of law that, if the Vehicle is not released during trial, it will be wasted and suffering the vagaries of the weather, its value will only reduce. In the absence of any specific bar under the NDPS Act and in view of Section 51 of NDPS Act, the Court can invoke the general power under Sections 451 and 457 of the Cr.P.C. for return of the seized vehicle pending final decision of the criminal case. Trial Court has the discretion to release the vehicle for an interim period. The seized vehicles can be confiscated by the trial court only on conclusion of the trial when the accused is convicted or acquitted or discharged. The seized vehicle is not liable for confiscation if the owner of the seized vehicle can prove that the vehicle was used by the accused person without the owner's knowledge or connivance and that he had taken all reasonable precautions against such use of the seized vehicle by the accused person. Further, the Court observed that if the Vehicle in the present case is allowed to be kept in the custody of police till the trial is over, it will serve no purpose. The Court took judicial notice that vehicles in police custody are stored in the open. Consequently, if the Vehicle is not released during the trial, it will be wasted and suffering the vagaries of the weather, its value will only reduce. On the contrary, if the Vehicle in question is released, it would be beneficial to the owner (who would be able to earn his livelihood), to the bank/financier (who would be repaid the loan disbursed by it) and to the society at large (as an additional vehicle would be available for transportation of goods) and allowed the appeal.

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Ram Pyarey Vs. The State of Uttar Pradesh [Criminal Appeal No.1408 of 2015]

Date of Judgment: 09.01.2025

498-A and Section 306 of the Indian Penal Code, 1860 and Section 4 of the Dowry Prohibition Act, 1961-In the absence of any cogent evidence harassment or abetment in any form like aiding or instigating- Court cannot straightway invoke Section 113A and presume that the accused abetted the commission of suicide under section 306.

The present Appeal has been filed by the Appellant /Accused against the Judgment of the high Court which dismissed the Appeal filed by the Appellant and three other co-accused and thereby affirmed the judgment and order of conviction passed by the trial court for the offence punishable under Sections 306 and 498-A of the Indian Penal Code, 1860 and Section 4 of the Dowry Prohibition Act, 1961.

The facts of the case was that the deceased doused herself with kerosene and set herself on fire. She died on account of severe burn injuries. The Appellant was the brother-in-law of the deceased. The Trial Court convicted the Appellant and all other accused for the offence of abetment of suicide punishable under Sections 306 and 498A of the IPC respectively. Thereafter, an appeal was being preferred by the Appellant which was also dismissed.

The Apex Court looked into the oral evidence on record. The court stated that when the Courts below want to apply Section 113A of the Evidence Act, the condition precedent is that there has to be some cogent evidence as regards cruelty & harassment. It is relevant to note that under Section 113B, the Court shall presume dowry death unlike Section 113A where the provision says that Court may presume abetment of suicide. This is the vital difference between the two provisions which raises presumption as regards abetment of suicide. When the Courts below want to apply Section 113A of the Evidence Act, the condition precedent is that there must be some cogent evidence as regards cruelty & harassment. In the absence of any cogent evidence as regards harassment or abetment in any form like aiding or instigating,

the court cannot straightaway invoke Section 113A and presume that the accused abetted the commission of suicide. Thus, the Hon'ble Apex Court allowed the Appeal and set aside the conviction of the Appellant ruling there was no substantial evidence to demonstrate that the Appellant has abetted the suicide. It highlighted the difference between sections 113 A and 113B of the Evidence Act, emphasizing that a presumption of abetment cannot be drawn without concrete evidence of cruelty or harassment.

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Edakkandi Dineshan @ P. Dineshan & Ors. Vs. The State of Kerala [Criminal Appeal No. 118 of 2013]

Date of Judgment: 06.01.2025

Section 302- principle 'falsus in uno, falsus in omnibus' - not a rule of evidence and if the court inspires confidence from the rest of the testimony of such a witness, it can very well rely on such a part of the testimony and base a conviction upon it- Clinching evidence.

Accused Cannot Claim Acquittal On Ground Of Faulty Investigation

The brief factual matrix of the case was that a hartal was called by the Rashtriya Swayam Sevak Sangh (RSS). The same led to violent clashes between the members of RSS and the Communist Party of India (M). This resulted in the death of two people. The accused persons were found guilty by the trial court of several charges under the Indian Penal Code including murder. However, as the matter reached the High Court, some accused were acquitted and the conviction of the rest was confirmed. It is the later set of accused that filed this present appeal challenging their conviction**.**

Addressing the appellant's contention of contradictions found in prosecution witnesses' testimonies, the Apex Court stated that there were minor variations. Instead, the Court found the testimonies to be truthful and trustworthy. To bolster, the Court referred to the recent case of *Birbal Nath vs State of Rajasthan,* wherein it was held that mere variation in two statements would not be enough to discredit a witness. Another important principle discussed by the Apex Court was "*falsus in uno, falsus in omnibus*", which means false in one thing, false in everything. However, the Court highlighted that this principle is not a rule of evidence and only because of some minor contradictions, rest of the testimony cannot be discarded. In this context, the Apex Court relied on the case of *Ram Vijay Singh Vs. State Of Uttar Pradesh.*

Further, even though the Apex Court observed that the investigation had not taken place in a proper and disciplined manner, it denied any relief to be given to the accused based on it. To strengthen its findings, the Apex Court referred to the decision

in *Paras Yadav & ors. vs. State of Bihar, [1999 (2) SCC 126]* and held that the accused cannot claim acquittal solely on grounds of faulty investigation. It explained that defective investigation does not automatically benefit the accused persons and Courts will have to consider the rest of the evidence relied on by the prosecution.

Thus, the hon'ble High Court found the Appellants guilty and dismissed the Appeal.

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HIGH COURT - CIVIL CASES

Vasumathi and another Vs. R.Vadudevan and others [S.A. No.527 of 2022 & CMP No.10560 of 2022] [2024 (6) CTC 609]

Date of Judgment: 08.11.2024

This Second Appeal has been filed by the Plaintiffs who are the daughters of the First Defendant, claiming partition of the immovable ancestral property under Section 6 of the Hindu Succession Act. The Defendants defended the suit stating that the property was self-acquired by the First Defendant based on prior transactions and through notional partition. The Plaintiffs contended that the First Defendant was estopped from denying the ancestral nature of the property, given in the language in the Partition Deed. The Trial Court decreed the suit in favour of the Plaintiffs, granting 1/5th share to each coparcener, but the First Appellate Court reversed the same, dismissing the claim of Plaintiff. Hence, this Second Appeal.

The Hon'ble High Court observed that the suit property was allotted to the First Defendant under Ex. A1 constitutes an ancestral property and the plaintiffs being coparceners are entitled to a share and when the plaintiffs have already become entitled to a share in the suit property as coparceners from 09.09.2005, when amended Sec.6 came into effect, anything done by the defendants to upset the plaintiffs entitlement is liable to be ignored by the Court and admittedly, on that date, there was no written partition between the defendants and the Substantial question No.2 being in favour of the plaintiffs/appellants. Allowed the Appeal.

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R.Surendran Vs. Arulmighu Ekambareswarar Thirukoil and others [S.A. No.32 of 2019 & CMP No.571 of 2019] [2024 (6) CTC 779]

Date of Judgment: 18.10.2024

The Plaintiff, Arulmighu Ekambareswarar Thirukoil, filed a Suit to recover possession of a 2500 sq.ft. property. The property was originally leased to one Audilakshmi Ammal, but after her death, the Defendant, Rose Gramani, occupied it without authorization. The Plaintiff claimed rent arrears and stated that the land belonged to the Temple. The Defendant argued that the land was Government Poramboke land and relied on a Joint Patta issued in 1971 to claim right. Both the Trial Court and the Appellate Court ruled in favour of the Plaintiff, on the ground that the Defendant having paid rent could not deny the Plaintiff's ownership. Hence, the Second Appeal has been filed by the Defendant.

Important Substantial questions of law decided :-

1. The HR & CE Department is in management of the plaintiff - Temple. The Suit has been filed only after due authorization from the Fit Person / Assistant Commissioner and hence the Suit for recovery of possession filed by the Executive Officer acting in the interest of the Temple is maintainable.

2. The sole defendant, who is a tenant under the plaintiff Temple cannot deny the title of the plaintiff merely because Ground Rent Patta has been granted under Section 13(1) of the Minor Inams Act jointly in favour of the plaintiff and Audilakshmi Ammal and the sole defendant is estopped under Section 116 of Indian Evidence Act, 1872 from denying the title of the plaintiff and the plaintiff had only after following due procedures fixed the fair rent and since the appellant had failed to remit the rent after November 28, 2002. the plaintiff issued Ex-A.6 - Notice of Termination to quit and deliver the vacant premises and the plaintiff has the option to elect for eviction either under the HR & CE Act or as per the Common Law remedy.

4. The Suit has been filed in the year 2005. Whereas the guidelines of the Commissioner of H.R.&C.E Department in Na.Ka.No.40651/2008/M3 were issued in the year 2009. It is not possible to follow guidelines issued in 2009 for actions taken

in or before 2005 and the rent has been fixed only after giving sufficient opportunity to the sole defendant and thus, the Court dismissed the Second Appeal.

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S.Baskar Vs. S.Ranjithkumar and others [CRP No.4050 of 2024 & CMP No.22272 of 2024] [2024 (6) CTC 819]

Date of Judgment: 02.12.2024

A Suit was instituted for the relief of Specific Performance of Contract of Sale and the same was decreed ex parte. Thereafter, Revision was filed by the Defendant under Article 227 of the Constitution of India challenging the Judgment of the Trial Court.

The Court held that where the defendant contests a suit or submits himself to a decree, it is the bounden duty of the trial Court to follow the procedure under Order XX Rule 4 of the Civil Procedure Code, by giving the concise statement of the case, the points for determination, the decision thereon and the reasons for such decision. If this is not satisfied and a cryptic unreasoned judgment is passed, it is ex facie illegal. The Court need not have a pedantic approach in this regard, since it involves the substantial right of the parties and in exercise of its jurisdiction under Article 227 of the Constitution of India, High Court is exercising power of superintendence over all the Courts and tribunals throughout the State and it cannot turn a blind eye when its attention is drawn to an ex-facie illegal judgment and it has to necessarily interfere with the same, failing which, there will be failure of justice and it will amount to perpetuating illegality and allowed the revision Petition.

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B.Vijaya @ Vijayalakshmi Vs. R.Balakrishnan [CMA No.3541 of 2017 & Cross-Objection No.51 of 2019] [2024(3) MWN(Civil)702]

Date of Judgment: 12.11.2024

The Civil Miscellaneous Appeal and Cross Objection has been filed by the Appellant/petitioner challenging the Judgment and Decree of the Trial Court in granting a Decree of Judicial Separation.

The facts of the case is that the Petitioner/wife filed a Petition under Section 13(1)(i-a) of the 'Hindu Marriage Act, 1955 against the Respondent/Husband and sought divorce on the grounds of cruelty and life-threatening conditions. However, the Respondent alleged that the petitioner deserted her family without informing anyone due to which their daughter experienced mental distress at a tender age, for which the respondent provided treatment and the petitioner took away important documents including bank passbooks, jewellery, and clothes, etc while leaving the house and was also avoiding their children when they tried to contact her and prayed that the divorce petition filed by the petitioner be dismissed with costs, as it was not legally tenable. The family court has disposed of the said petition by granting the relief of judicial separation, instead of the relief of divorce.

The Hon'ble High Court observed that the petitioner desired to pursue entrepreneurship and be independent, which the respondent opposed to. This is a case where the wife wishes to be independent and pursue her aspirations, for which the husband acts as an obstacle. Every individual has the right to live independently, freely and pursue their desired profession or business. This Court is of the view that the respondent standing in the way of his wife hindering her from pursuing her aspirations, in the cumulative facts and circumstances of the case, amounts to mental cruelty. Though there is no physical cruelty, mental cruelty has been established by the petitioner. The Family Court is not right in concluding that cruelty is not made out by the petitioner.

The Court stated that the meaning and import of Section 10(2) of the Act in which it is laid down that where a decree for judicial separation has been passed it

shall no longer be obligatory for the petitioner to cohabit with the respondent, but the court may, on the application of either party and on being satisfied of the truth of the statements made in such petition, rescind the decree if it considers it just and reasonable to do so as held in ***Hirachand Srinivas Managaonkar Vs. Sunanda, reported in (2001) 4 SCC 125.***

Further, the Court observed that the scope and ambit of judicial separation under Section 10 and divorce under Section 13 of the H.M. Act are completely different and the said reliefs cannot be granted interchangeably or alternatively when not sought for as held in ***Vinay Khurana Vs. Shweta Khurana, reported in 2022 SCC Online Del 517.*** Moreover, the Court observed that the Petitioner filed HMOP Petition seeking divorce and never sought for the relief of Judicial separation under section 10 of Hindu Marriage Act as an alternate relief and hence allowed the Civil Miscellaneous Appeal and dismissed the Cross Objection filed by the Respondent.

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R.Singaravadivelan Vs. Durai Senthil [A.S (MD) No.126 of 2024 and CMP (MD) No.6651 of 2024] [2024-5-LW-733]

Date of Judgment: 08.11.2024

The Appeal Suit has been filed by the Appellant/Defendant challenging the Judgment and Decree of the Trial Court in decreeing the suit filed by the Plaintiff for recovery of money.

The case of the plaintiff is that the defendant was engaged in the business of film distribution and that on 06.05.2015, he had borrowed Rs.55,00,000/- from plaintiff for his business purposes under Ex.A.1 – Promissory Note, dated 06.05.2015 and that he made repeated demands for the repayment of the sum and the defendant evaded repayment and eventually, the plaintiff issued Ex.A.2 – Suit Notice, dated 05.12.2017, which was received by the father of the defendant and as the amounts were not forthcoming, he laid the suit for recovery of the said sum with interest.

However, the case of the defendant is that there is no privity of contract between him and the plaintiff and that on 06.05.2015, he borrowed a sum of Rs.10,00,000/-, not from the plaintiff, but from one Thirunavukkarasu, who, according to him, was (defendant's) friend and left with him blank signed stamp paper and it appeared that there were some transactions between the plaintiff and Thirunavukkarasu and the plaintiff is alleged to have barged into the house of Thirunavukkarasu and removed many documents from the latter's house and it appears he had also got the signed blank stamp paper left by the defendant with Thirunavukkarasu and clandestinely filled the same and has laid the suit for recovery of money.

The Trial Court decreed the suit in favour of the Plaintiff

The Court observed that when the plaintiff has filed the suit based on the pronote and the pro-note was also proved to have been executed, Section 118(a) of NI Act raises a presumption in favour of plaintiff that until the contrary is proved that the pro-note was made for consideration. In this case, the defendant has not let in

any rebuttal evidence. Except the defendant, no witness was examined on his side. Moreover, even the defendant had not taken any steps to get an expert opinion regarding the period when the contents were written in the Ex.A.1 – pro-note, when he claimed that he signed in a blank stamp paper. The defendant has not chosen to examine any other witness while P.W.2 deposed that he saw the execution of pro-note by the defendant by putting his signature and also receipt of money and that he saw the attestor signing. The defendant has also not examined any other witness to disprove the presence of P.W.2 and one Saravanan also with the defendant. At least, he might have examined the alleged Saravanan, but he failed to do so. The defendant might have knowledge of the legal notice, however, the defendant has not sent any reply, which also strengthens the presumption against the defendant.

Further, the defendant contended that non-filing of the Income Tax Returns by the plaintiff is fatal and that the advancing of the loan was not reflected in the income tax return, it could be termed as illegal money and the same could not be recovered through Court of law. The defendant has not taken such a specific plea in the written statement. Therefore, on the unpleaded averments, the trial Court ought not to have given a finding, holding that no Income Tax Return was filed by the plaintiff, though he claimed that he was an Income Tax Assessee.

Moreover, the Court stated that it was clear that a money transaction not reflected in the Income Tax Returns can be permitted to be enforced by instituting proceedings in view of the presumption U/s.139 of the Negotiable Instruments Act. The defendant has not rebutted the presumption. Violation of Sections 269-SS and/or Section 271-AAD of the Income Tax Act of 1961 would not render the transaction unenforceable under Section 138 of the Act of 1881. The plaintiff is answerable for such violation if the concerned authorities initiate a proceeding. The defendant cannot take advantage of such violation and cannot claim that due to the non-reflection of the loan in income tax returns, the plaintiff could not institute suit for recovery of money.

Thus, the High Court while dismissing the Appeal held that the Plaintiff had proved the execution of pro-Note and receipt of loan amount and that the theory of the appellant/defendant being a stranger to the plaintiff has been made only for the purpose of wriggling out civil liability of paying back the suit money.

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HIGH COURT – CRIMINAL CASES

Vijayasekar Vs. State, rep. by the Additional Superintendent of Police, Vigilance and Anti-Corruption, Coimbatore [Crl. R.C. No.766 of 2024 and Crl. M.P. No.7104 of 2024] [2024-4-MLJ (Crl.) 543]

Date of Judgment:10.07.2024

The Criminal Revision Petition has been preferred by the Petitioner challenging the order of the Trial Court in dismissing the discharge petition filed by him.

The facts of the case is the petitioner herein has joined the service as a Divisional Fire Officer in the Fire Rescue Department and served therein. Thereafter, he served in Coimbatore and at Kancheepuram. Then he was promoted as Deputy Director of Fire Rescue Services and was posted at Vellore. On 03.10.2013, he was appointed as Joint Director of Fire Rescue Services Department and was posted in North Chennai and thereafter he was transferred to the Western Region at Coimbatore. While he was serving in the said office, an FIR came to be registered against him, alleging that the petitioner had committed an offence punishable under Sections 13(1)(e) r/w. Section 13(2) of the Prevention of Corruption Act, 1988.

The allegation leveled against the petitioner is that he had acquired assets which are disproportionate to his source of income. The respondent filed a final report before the learned Special Judge, Special Court for PC Act Cases, Coimbatore. Thereupon, the petitioner has filed a discharge petition in Crl.M.P.No.913 of 2023 seeking to discharge him on the ground that the Court had no territorial jurisdiction to try the offence as the petitioner neither held office nor had acquired assets in Coimbatore during the check period but the trial Court had dismissed the petition stating that the petitioner had held office before the check period and that would confer jurisdiction on the Court to try the offence.

This was a revision assailing an order dismissing an application for discharge. The point in issue was whether the Special Court at Coimbatore was competent to try

the sole accused / the petitioner, for an offence under Section 13(1)(e) of the Prevention of Corruption Act, 1988.

The Court observed that the offence of criminal misconduct under Section 13(1)(e) of the P.C Act has a nexus with the period of office and the petitioner neither worked nor acquired properties in Coimbatore during the check period. Hence, the Court at Coimbatore would have absolutely no jurisdiction to try the instant case.

Further, the Court observed that under Section 13(1)(e) PC Act, once the ingredients of the offence are established by the prosecution, the burden of proof, shifts on the accused person to account for the pecuniary resources and properties found in his possession during the relevant check period. However, in cases where the public servant is alleged to have taken illegal gratification, the burden of proof to prove the offence under Section 13(1)(d) of the PC Act is on the prosecution and not on the accused.

Thus, the Court while allowing the Revision Petition held that the Trial Court has no jurisdiction to try the offence as the Petitioner neither worked nor acquired assets at Coimbatore during the check period as per the final report.

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N.Manoharan and another Vs. G.Sivakumar and others [Crl. OP No.24774 of 2022 and Crl. MP Nos.15554 and 15555 of 2022] [2024-4-MLJ (Crl.) 627]

Date of Judgment: 26.09.2024

This Criminal original petition has been filed by the Accused/petitioner to quash the proceedings pending before the Trial Court.

The facts of the case is that the Defacto Complainant **/** 1st respondent had given a complaint as against the petitioners before the 3rd respondent police and FIR was registered in Cr. No.26 of 2014 for the offences under Sections 420, 465, 471, 477(A) read with Sections 34 of IPC. The said FIR was challenged through Crl. O.P. No.11424 of 2015 for quashment and this Court quashed Section 420 of IPC alone and dismissed the petition for other offences through an order dated 27.02.2019. Thereafter, the 3rd respondent police has investigated the case and filed a final report. Thereupon, the defacto complainant had filed a protest petition and the same was taken cognizance by the Trial Court for the offences under Sections 465, 467, 471, 477(A) read with Section 34 of IPC. Now the petitioner has challenged the said proceedings.

The Hon'ble High Court observed that it is an admitted fact that there is a civil dispute between the parties in respect of the title of the property. The main contention of the petitioners is that they are the owners of the properties. The allegations levelled against the petitioners are that they forged and created the Adangal and Chitta. The respondent police, after elaborate investigation, closed the case as it is purely civil in nature. However, the 1st respondent filed a protest petition and in the protest petition, he has stated that though civil suit is pending, in respect of the title of the property, the allegations levelled against the petitioners are in respect of forging the chitta and adangal. Therefore, he filed a protest petition before the trial Court and the learned Judicial Magistrate by applying his mind found that there are prima facie materials available to proceed with the case as against the petitioners and taken cognizance for the offences under Sections 465, 467, 471, 477(A) read with Section 34 of IPC. Since

the allegations are serious in nature and as per the protest petition, there are serious allegations levelled against the petitioners to constitute the offences, it needed an elaborate trial. The title of the property can be decided by a competent civil Court. But at the same time, the allegations in respect of forgery of Adangal and Chittas, have to be decided through trial. Therefore, the Court stated that it cannot invoke provisions of Section 482 of the Code of Criminal Procedure to quash the proceedings.

The Court while dismissing the Petition held that merely because the investigation agency filed a negative report, the same was not a ground to quash the proceedings and there was procedural violations while taking cognizance by the Trial Court.

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Union of India represented by its Additional Superintendent of Police, National Investigation Agency, Kochi.Vs. Mohammed Asarudeen and others [Crl. OP No.2872 of 2024] [2024-2-LW (Crl.) 823]

Date of Judgment: 21.10.2024

The Criminal Original Petition has been filed by the Petitioner/Prosecution under Section 482 of Cr.P.C. to modify the order passed on the file of the Trial Court by setting aside the direction to the extent that it directs the furnishing of copies of the un-redacted 161 (3) statements of the protected witnesses to the accused after the chief examination of such protected witnesses.

The facts of the case is that the petitioner filed a petition under Section 44 of the Unlawful Activities (Prevention)Act 1967 (hereafter referred as UAP Act) r/w. Section 17 of the National Investigation Agency Act 2008 (Herein after referred as NIA Act) r/w. Section 173 (6) of Cr.P.C for passing necessary orders not to supply copies of the statement recorded under Section 161 of Cr.P.C in respect of protected witnesses to the accused persons or their advocates/Legal Counsels in view of the safety and security of the witnesses.

The Trial Court adjudicated the issues and passed orders granting permission to the prosecuting agency to hide the identity and address of the witnesses mentioned in Annexure "A" to the charge sheet and in the statements of said witnesses recorded under Section 161 of Cr.P.C. The second direction issued by the Trial Court is to submit one separate set of true copy of such hided copy of statements of those witnesses in Annexure-A to the charge sheet to the Court, along with the copies to be supplied to the accused persons, to be kept with the case records. Upon such submission, the Trial Court directed its office to keep the original of Annexure-A to the charge sheet and the statements under Section 161 of Cr.P.C of the said witnesses in a sealed cover separately under the safe custody of the Court.

The objectionable third direction, which resulted in filing of the present original petition is that the original statements under Section 161 of Cr.P.C in respect of those

witnesses will be opened from the sealed cover on the date of examination of the concerned witnesses and after examination in chief is over, the statement of such witnesses shall be supplied to the accused immediately.

The Hon'ble High Court has observed that as far as the petition filed by the prosecuting agency before this Court under Section 482 Cr.P.C is concerned, admittedly no appeal would lie against the Interlocutory orders of the Special Court under Section 21(1) of NIA Act. In the absence of any appeal provision if miscarriage of justice happens, then the High Court is empowered to invoke its inherent powers conferred under Section 482 Cr.P.C. To meet the ends of justice, High Court is expected to exercise the powers under Section 482 Cr.P.C and in the present case, when an appeal is not contemplated under NIA Act to the prosecuting agency, and the interest of the protected witnesses are concerned, we have no hesitation in forming an opinion that the present petition under Section 482 Cr. P.C would be entertainable. It is brought to the notice of this Court that the examination of witnesses in chief and cross have already been concluded and therefore, no prejudice would be caused to the accused persons at this stage.

Further, the Court observed that the Trial Court though granted protection to the witnesses as prayed for by the petitioner/prosecuting agency issued a rider clause in direction No.3, which would in our opinion would dilute the very purpose and object of Section 44 in protecting the witnesses, which is a special provision, more specifically in respect of such serious offences.

Moreover, the Court stated that once the Court formed an opinion that the witnesses are to be protected, the said protection must be in complete form and it cannot be diluted at any circumstances. Once the statement under Section 161 Cr.P.C. in respect of those protected witnesses are kept in a sealed cover, it cannot be opened after examination of the concerned witnesses and after examination in chief is over. It cannot be opened for the purpose of handing over to the accused persons. It is to be opened only for the purpose of dealing with the case by the court and for disposal

of the case. If it is opened for handing over the statement to the accused persons, then the protection becomes an empty formality, which is not otherwise intended under Section 44 of the UPA Act.

Thus, the court partly allowed the Petition by setting aside the third direction issued by the Trial Court.

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Silambarasan Vs. State rep. by Inspector of Police, Mettupalayam Police Station, Puducherry [Crl. A. Nos.191 and 357 of 2019] [2024 2) LW (Crl.) 897]

Date of Judgment: 05.12.2024

Two Criminal Appeals has been filed by the Accused (A1) and (A2) against the conviction and sentence imposed upon them by the Trial Court for the offences under section 302 r/w 34 of IPC and other offences.

The case of the prosecution is that A1 to A3 murdered PW1's mother, based on PW4 statement, about the presence of the accused at the scene of occurrence at 13.30 hours along with the deceased, arrested the first accused. During interrogation, the first accused voluntarily gave a confession statement in the presence of witnesses. Subsequently, the Investigating Officer took the first accused to Kumbakonam, where he identified the second and third accused. Upon identification, both accused were arrested. After the arrest, the second accused voluntarily gave confession statement, besides a laptop, cell phone, and two SIM cards were also seized from him. Based upon the second accused confession statement, a discovery of fact was effected by recovering stolen articles, namely the deceased's bangles, from one M/s. Muthalagu Finance. This seizure was effected in the presence of witnesses. Subsequently, another discovery of fact was made by seizing other stolen articles, qua a gold chain, from one Mr.Suresh. Besides, the Investigating Officer also recovered a Samsung mobile phone, gold chain, and other gold ornaments, from the third accused's house. The Trial Court, after considering the oral and documentary evidences, as well as the material objects, found that the prosecution had proved the charges against the accused, beyond reasonable doubts. Ultimately, all the accused were convicted and sentenced to undergo life imprisonment and to pay a fine.

The Hon'ble High Court observed under these circumstances, that this court was of the firm view that the identification of the deceased jewels and property stolen from the deceased's house was duly identified by PW1 and PW2. Hence, once this Court arrives at a conclusion that the property recovered at the instance of the second

accused belongs to the deceased, it is necessary for the accused to explain as to how he was in possession of the deceased's articles. However, the second accused, at the fag end of the trial, claimed that the bangles [MO4] belong to him. While looking into his defence during the cross-examination of PW1, PW2 and PW11, it is revealed that no ownership was claimed over the recovered bangles. As such, his claim of ownership, during 313 Cr.P.C questioning, would definitely be a dichotomy, rendering the second accused's explanation as false. This false explanation would certainly be an additional circumstance against the second accused. As already stated, the involvement of the second accused was discovered only through the statement of the first accused, besides as against the first accused last seen theory was also proved and admitted by him.

The prosecution had proved the recovery of the deceased's articles at the instances of the first and second accused, beyond reasonable doubt. The identity of the deceased's articles were also proved beyond reasonable doubt through her son and husband qua PW1 and PW2. In such circumstances, there is a duty cast upon the accused to explain as to how the deceased's articles came to their custody, as required under Section 106 of the Evidence Act, which factum the accused failed to explain. Further, their false explanation as to the ownership of two bangles [MO4] would fortify and reinforce the above incriminating circumstances. Thus, all these above circumstances, unerringly points to the guilt of the accused, by excluding all other hypothesis.

Thus, the Court while dismissing both the Appeals held that the Prosecution has established all the charges and incriminating circumstances against the accused beyond all reasonable doubt.

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Mariya Leela Vs. State rep. by Inspector of Police, Valliyoor Police Station, Tirunelveli District [Crl. A (MD) No.718 of 2022] [2024(3) MWN (Cr.) 532 (DB)]

Date of Judgment: 21.11.2023

The Criminal Appeal has been preferred by the Appellant/Accused challenging the Judgment passed by the Trial Court in convicting the Appellant for the offence punishable under section 302 of the Indian Penal Code.

The facts of the case is that the deceased / husband was the owner of two-storey house and two small tiled houses. The deceased wanted to give those properties to PW1 & PW2 and denied the accused / wife any property.Due to this enmity the accused quarrelled and poured Kerosene over him and set him ablaze using a fire torch and the deceased despite medical intervention passed away. The accused was charged under section 294 B and 302 IPC.

The Trial Court after hearing both sides, concluded that the prosecution has proved the offence under Section 302 of IPC but failed to prove the offence under Section 294(b) of IPC. Accordingly, the Trail Court convicted and sentenced the Accused. Feeling aggrieved with the conviction recorded and sentence imposed by the trial court, the Accused has preferred this Criminal Appeal under Section 374(2) of Cr.P.C.

The Court observed that it is a settled legal proposition that the evidence of a prosecution witness cannot be rejected in toto merely because the prosecution chose to treat him as hostile and cross-examine him. The evidence of such witnesses cannot be treated as effaced or washed off the record altogether but the same can be accepted to the extent that their version is found to be dependable on a careful scrutiny thereof. It is a settled position of law that conviction can be recorded solely based on dying declaration if it inspires confidence of the court. Recently, the Hon'ble Supreme Court in Veerpal's case [***State of U.P. Vs. Veerapal and another, reported in (2022) 4 SCC 741]*** held that there is neither a rule of law nor of precedence to the effect that a dying declaration cannot be acted upon without a

corroboration. If it is observed and held that if the Court is satisfied that the dying declaration is true and voluntary it can base its conviction on it without corroboration.

Thus, the Court while dismissing the criminal Appeal held that dying declaration Ex.P.11 - Statement was duly recorded and there was no reason to disbelieve the same.

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