

# TAMIL NADU STATE JUDICIAL ACADEMY

**\*\* VOL. XVI — PART 07 — JULY 2021 \*\***

## COMPENDIUM OF CASE LAWS



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### SUPREME COURT - CIVIL CASES

S. No.	CAUSE TITLE	CITATION	DATE OF JUDGMENT	SHORT NOTES
1	<a href="#">Sukhbir Vs. Ajit Singh</a>	2021 SCC Online SC 357	30-04-2021	<p><b>Section 73, Indian Contract Act, 1872</b>  <b>Section 21, Specific Relief Act, 1963</b>  <b>Section 6, Land Acquisition Act, 1888</b></p> <p>Where the contract for no fault of the Plaintiff becomes impossible, Section 21 of the Specific Relief Act, 1963 enables award of compensation in lieu and substitution of the specific performance. The Decree for compensation is passed as an alternate Decree.</p>
2	<a href="#">A.R. Madana Gopal &amp; Ors. Vs. M/s. Ramnath Publications Pvt. Ltd. &amp; Anr.</a>	2021 SCC Online SC 300	09-04-2021	<p><b>Section 230A, Income Tax Act, 1961</b>  <b>Section 10-A, Specific Relief Act, 1963</b></p> <p>Once a suit for specific performance has been filed, any delay as a result of the Court process cannot be put against the Plaintiff as a matter of law in decreeing specific performance. However, it is within the discretion of the Court, as to whether some additional amount ought or ought not to be paid by the plaintiff once a decree of</p>



				specific performance is passed in its favour even at the appellate stage.
3	<a href="#">IFFCO Tokio General Insurance Company Ltd.</a> <a href="#">Vs.</a> <a href="#">Pearl Beverages Ltd.</a>	2021 SCC Online SC 309	12-04-2021	<p><b>Section 185, Motor Vehicles Act, 1988</b> <b>Section 17, Consumer Protection Act, 1986</b></p> <p>The requirement under Section 185 of the Motor Vehicles Act, 1988 is not to be conflated to what constitutes driving under the influence of alcohol under the policy of insurance in an Own Damage Claim. Such a claim must be considered on the basis of the nature of the accident, evidence as to drinking before or during the travel, the impact on the driver and the very case set up by the parties.</p>
4	<a href="#">Ripudaman Singh</a> <a href="#">Vs.</a> <a href="#">Tikka Maheshwar Chand</a>	2021 SCC Online SC 457	06-07-2021	<p><b>Section 17(2)(vi), Registration Act, 1908</b></p> <p>The compromise was between the two brothers consequent to death of their father. No right was being created <i>in praesenti</i> for the first time, thus registration is not required.</p>
5	<a href="#">Deccan Paper Mills Company Ltd.</a> <a href="#">Vs.</a> <a href="#">Regency Mahavir Properties &amp; Ors.</a>	AIR 2020 SC 4047	19-08-2020	<p><b>Section 31, Specific Relief Act, 1963</b></p> <p>Action instituted under Section 31 of the Specific Relief Act, 1963 is not an action <i>in rem</i>.</p>

## SUPREME COURT - CRIMINAL CASES

S. No.	CAUSE TITLE	CITATION	DATE OF JUDGMENT	SHORT NOTES
1	<a href="#">Vinod Dua Vs. Union of India &amp; Ors.</a>	2021 SCC Online SC 414	03-06-2021	<p><b>Sections 124A, 268, 501 and 505, Indian Penal Code, 1860</b></p> <p>Every Journalist will be entitled to protection in terms of <i>Kedar Nath Singh Vs. State of Bihar, (1962) Supp. 2 SCR 76</i>, as every prosecution under Sections 124A and 505 of the IPC must be in strict conformity with scope and ambit of said Sections as explained in, and completely in tune with law laid down in <i>Kedar Nath Singh</i>.</p>
2	<a href="#">Sanjay Kumar Rai Vs. State of Uttar Pradesh &amp; Anr.</a>	2021 SCC Online SC 367	07-05-2021	<p><b>Sections 155(2) and 397(2), Criminal Procedure Code, 1973</b></p> <p><b>Sections 504 and 506, Indian Penal Code, 1860</b></p> <p>It is well settled that the trial Court while considering the discharge application is not to act as a mere post office. The Court has to sift through the evidence in order to find out whether there are sufficient grounds to try the suspect. The court has to consider the broad probabilities, total effect of evidence and documents produced and the basic infirmities appearing in the case and so on.</p>
3	<a href="#">Satbir Singh &amp; Anr. Vs.</a>	2021 (3) MLJ (Crl) 46 (SC)	28-05-2021	<p><b>Sections 306 and 304-B, Indian Penal Code, 1860</b></p> <p>The High Court and Trial Court have not committed any error in</p>

	<a href="#">State of Haryana</a>			convicting the appellants under Section 304-B, IPC as the appellants failed to discharge the burden under Section 113-B, Evidence Act. The Supreme Court held that the offence under Section 306, IPC is not made out.
4	<a href="#">Jayamma &amp; Anr. Vs. State of Karnataka</a>	2021 (2) MLJ (CRL) 550 (SC)	07-05-2021	<p><b>Power of the High Court under Section 378, Criminal Procedure Code, 1973</b></p> <p>The power of scrutiny exercisable by the High Court under Section 378, Cr.P.C should not be routinely invoked where the view formed by the trial court was a 'possible view'.</p>
5	<a href="#">Kalabhai Hamirbhai Kachhot Vs. State of Gujarat</a>	2021 SCC Online SC 347	28-04-2021	<p><b>Appreciation of evidence</b></p> <p>The omissions like not seizing the motorcycle and also not seizing the gold chain of one of the victims, by themselves, are no ground to discredit the testimony of key witnesses who were examined on behalf of the prosecution, whose say is consistent, natural and trustworthy.</p>

**HIGH COURT - CIVIL CASES**

<b>S. No.</b>	<b>CAUSE TITLE</b>	<b>CITATION</b>	<b>DATE OF JUDGMENT</b>	<b>SHORT NOTES</b>
1	<a href="#">S. Saraladevi Surana</a> <a href="#">Vs.</a> <a href="#">G.S. Sundararaj &amp; Ors.</a>	CDJ 2021 MHC 2974	01-07-2021	<b>Article 54, Limitation Act, 1963</b> The Plaintiff failed to pay the balance sale consideration within the time fixed as per the agreement for sale. The Plaintiff did not take any step to perform his part of the contract. The delay in proceeding against the Defendants clearly establishes that the Plaintiff was not ready and willing to perform his part of the contract at any point of time.
2	<a href="#">Manidurai</a> <a href="#">Vs.</a> <a href="#">Vijaya Rengan &amp; Anr.</a>	CDJ 2021 MHC 2789	24-06-2021	<b>Fixing of Monthly Income in absence of proof</b> The Claimant was a mason. In the absence of proof of income, the monthly income as fixed by the Tribunal at Rs.4500/- per month, was held to be reasonable.
3	<a href="#">D. Sivakumar</a> <a href="#">Vs.</a> <a href="#">Parimala</a>	CDJ 2021 MHC 2683	11-06-2021	<b>Sections 13(1)(i-a) and 25, Hindu Marriage Act, 1955</b> No case has been made out to invoke Section 13(1)(i-a) of the Hindu Marriage Act, as no witness or oral/documentary evidence has been produced by the Appellant/wife in support of her allegations of cruelty against the Respondent/husband. Permanent alimony or maintenance to wife cannot be granted if the petition for divorce is dismissed.



4	<a href="#">Abdul Sathar Vs. The Principal Secretary to Government, Home Department, Chennai &amp; Ors.</a>	CDJ 2021 MHC 1193	05-02-2021	<p><b>Section 18, Protection of Human Rights Act, 1993</b></p> <p>Recommendation of State Human Rights Commission under Section 18 of the Act is binding on the Government or Authority. The Adjudicatory Order is legally and immediately enforceable.</p>
5	<a href="#">Johrilal Chowdhary (Died) &amp; Ors. Vs. D. Shankar Chettiar</a>	CDJ 2021 MHC 2682	11-06-2021	<p><b>Section 58, Indian Evidence Act, 1872 r/w Order XII, Rule 6 and Order XV, Rule 1, Code of Civil Procedure, 1908</b></p> <p><b>Section 59, Transfer of Property Act, 1882</b></p> <p>In light of the Defendant's admission of borrowal, the trial Court ought to have decreed the suit filed by the Plaintiffs. The deposit of title deeds of the property, being an equitable mortgage, need not be registered.</p>
6	<a href="#">T.K. Kulandaivelu Vs. K.P. Nallusamy</a>	2021 (4) MLJ 583	30-04-2021	<p><b>Section 118, Negotiable Instruments Act, 1881</b></p> <p>Defendant had not rebutted the presumption drawn against him under Section 118, NI Act, as no documentary evidence has been adduced, or witness examined to support his contention.</p>
7	<a href="#">N. Govindarajan &amp; Anr. Vs. S. Logeswari, Rep. by Power of Attorney, S.L. Arokiyasamy</a>	2021 (5) MLJ 48	04-03-2021	<p><b>Tenancy Laws – Eviction Petition – Strike off – Article 227, Constitution of India, 1950</b></p> <p>After having been failed before all the courts, the respondent again filed eviction petition on the ground of wilful default and denial of title for the very same premises. It is clear abuse of process of law.</p>

8	<a href="#">V. Ramasamy</a> <a href="#">Vs.</a> <a href="#">L. Priya @</a> <a href="#">Priya</a> <a href="#">Bhuvanewari</a>	2021 (4) MLJ 29	26-04-2021	<p><b>Sections 13(1)(i-a) &amp; (i-b) and 28, Hindu Marriage Act, 1955</b></p> <p>Although the allegation of cruelty and desertion has been found against the Appellant, the fact that the Appellant and Respondent are living separately for the past 25 long years, and that mediation efforts undertaken also proved to be of no avail, would compel the Court to grant the decree of divorce.</p>
9	<a href="#">Saroja &amp; Anr.</a> <a href="#">Vs.</a> <a href="#">Parvathy &amp;</a> <a href="#">Ors.</a>	2021 (4) MLJ 597	01-06-2021	<p><b>Section 175, The Motor Vehicles Act, 1988</b></p> <p><b>Rule 2(c), Tamil Nadu Motor Vehicles Accident Claims Tribunal Rules, 1989</b></p> <p>Jurisdiction of Civil Court is barred under Section 175 of Motor Vehicles Act, to entertain any question relating to claim for compensation. Dependency and not Legal Heirship Certificate is the basis for entitlement to compensation.</p>
10	<a href="#">Subbaiya</a> <a href="#">Gounder</a> <a href="#">Vs.</a> <a href="#">Velathal &amp;</a> <a href="#">Ors.</a>	CDJ 2021 MHC 118	19-01-2021	<p><b>Section 6, Hindu Succession Act, 1956</b></p> <p><b>Section 73, Indian Evidence Act, 1872</b></p> <p>First Appellate Court has erroneously held that the suit properties are self-acquired properties of the deceased and that Will executed by the deceased is not a true document. Plaintiff's claim is rejected as although the Will came into force in 1987, present suit was laid only in 2001.</p>

**HIGH COURT - CRIMINAL CASES**

<b>S. No.</b>	<b>CAUSE TITLE</b>	<b>CITATION</b>	<b>DATE OF JUDGMENT</b>	<b>SHORT NOTES</b>
1	<a href="#"><u>Vidya Vs. The State Rep. by the Inspector of Police, Madhavaram, Chennai &amp; Anr.</u></a>	CDJ 2021 MHC 3021	06-07-2021	<b>Sections 239, 397 and 401, Criminal Procedure Code, 1973</b> Probative value of the evidence need not be gone into at the stage of framing of charges.
2	<a href="#"><u>Senthil Kumar &amp; Anr. Vs. The State of House Officer, Kodumudi Police Station, Erode &amp; Anr.</u></a>	CDJ 2021 MHC 2981	06-07-2021	<b>Section 200, Criminal Procedure Code, 1973</b> The practice of taking cognizance through "Rubber Stamp" orders under Sections 200 and 204, Cr.P.C is deprecated.
3	<a href="#"><u>Kanagaraj Vs. The State Rep. by Inspector of Police, Kottur Police Station, Coimbatore</u></a>	CDJ 2021 MHC 2980	06-07-2021	<b>Section 374 (2), Criminal Procedure Code, 1973</b> Not sending the Statements recorded under Section 164, Cr.P.C., immediately to the Court is only a defect committed by the I.O, and is not fatal to the case of the prosecution.
4	<a href="#"><u>Irfan Vs. The Inspector of Police, All Women Police Station, Krishnagiri</u></a>	CDJ 2021 MHC 3027	05-07-2021	<b>Section 164(5), Criminal Procedure Code, 1973</b> <b>Sections 5(a)(i) and 6, POCSO Act, 2012</b> The statement of the victim recorded under Section 164(5) Cr.P.C is not a substantive piece of evidence. It can be used for corroboration or contradiction.

5	<a href="#"><u>Sadam Hussain Vs. State by The Inspector of Police, Chennai</u></a>	CDJ 2021 MHC 1634	05-03-2021	<p><b>Appreciation of evidence</b> Prosecution has failed to prove its case beyond all reasonable doubt, and the Trial Court had erred in convicting the Appellant/Accused on the basis of uncorroborated and doubtful evidence of P.W.1, which is in conflict with the other evidence and thereby the Appellant/Accused is entitled to the benefit of doubt.</p>
6	<a href="#"><u>State Rep. by the Inspector of Police, Shankar Nagar Police Station, Chennai &amp; Anr. Vs. M.Dhamodaran @ Prakash &amp; Anr.</u></a>	CDJ 2021 MHC 2826	28-06-2021	<p><b>Sections 302 and 309, Indian Penal Code, 1860</b> As held in <i>Union of India Vs. V. Sriharan @ Murugan &amp; Ors., (2016) 7 SCC 1</i>, the Court can fix such terms of imprisonment in a given case for ensuring that statutory remissions and commutations do not inure to the advantage of a convict prisoner.</p>
7	<a href="#"><u>Union of India, Rep. by the Inspector of Police, National Investigation Agency, Chennai Vs. Vivekanandan @ Vivek @ Raja @ Balan &amp; Anr.</u></a>	CDJ 2021 MHC 2825	28-06-2021	<p><b>Section 21, National Investigation Agency Act, 2008</b> The statutory right of a prisoner to be released on default bail under Section 167(2), Cr.P.C shall not be exercised in a cavalier manner.</p>



8	<p><a href="#">S. Padma</a> <a href="#">Vs.</a> <a href="#">State of Tamil Nadu, Rep. by the Secretary to Government</a></p>	2021-2-L.W. (Cri) 59	17-06-2021	<p><b>Right of convicts to contact family members</b></p> <p>If the convicts are not permitted to have conversation with their grieving family members, it would amount to violation of Article 14, 19 and 21 of the Constitution of India. Authorities are directed to videograph the conversation, and if any conversation apart from family matters are discussed, the authorities are at liberty to disconnect the call.</p>
9	<p><a href="#">Ramesh</a> <a href="#">Vs.</a> <a href="#">State Rep. by its All Women Police Station, Cuddalore</a></p>	CDJ 2021 MHC 2636	14-06-2021	<p><b>Sections 376 and 417, Indian Penal Code, 1860</b> <b>Section 374(2), Criminal Procedure Code, 1973</b></p> <p>False promise itself has no immediate relevance and also does not bear direct nexus to the decision of the prosecutrix to engage in the sexual act.</p>
10	<p><a href="#">State Rep. by the Inspector of Police, Chennai</a> <a href="#">Vs.</a> <a href="#">Dr. M. Manikandan</a></p>	CDJ 2021 MHC 2969	02-07-2021	<p><b>Sections 417, 376, 313, 323 and 506(i), IPC r/w 67A, Information Technology Act, 2000</b> <b>Section 482, Criminal Procedure Code, 1973</b></p> <p>The seizure and verification are imminent to complete the chain of events with conclusive evidence. Police custody of the Respondent granted, to find the whereabouts of material evidence concealed by him.</p>



**SUPREME COURT - CIVIL CASES****Sukhbir Vs. Ajit Singh [2021 SCC Online SC 357]****Date of Judgment: 30-04-2021**

Section 73, Indian Contract Act, 1872 — Section 21, Specific Relief Act, 1963 — Sections 6 and 21, Land Acquisition Act, 1894 — Specific Performance of Contract/Sale Agreement

Judgment and Decree for specific performance passed by the trial Court was modified by the High Court. The Supreme Court made a reference *Jagdish Singh v. Natthu Singh, 1992 1 SCC 647*, wherein it was held that, "Where the contract for no fault of the Plaintiff becomes impossible, Section 21 of the Specific Relief Act, 1963 enables award of compensation in lieu and substitution of the specific performance. Ends of justice will be served if the Plaintiff is awarded the entire amount of compensation determined under the Land Acquisition Act, 1894 together with interest and solatium." The Supreme Court, thus held that, "Plaintiff shall be entitled to the entire amount of compensation awarded under the Land Acquisition Act, 1894 together with interest and solatium."

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**A.R. Madana Gopal & Ors. Vs. M/s. Ramnath Publications Pvt. Ltd.  
& Anr. [2021 SCC Online SC 300]**

**Date of Judgment: 09-04-2021**

Section 10A, Specific Relief Act, 1963 — Suit for Specific Performance of Contract — Ground of delay or laches

The Supreme Court, relying on its own precedents\*, held that, "A suit for specific performance cannot be dismissed on the sole ground of delay or laches. However, an exception to this rule is, where an immovable property is to be sold within a certain period, time being of the essence, and it is not found that owing to some default on the part of the plaintiff, the sale could not take place within the stipulated time. Once a suit for specific performance has been filed, any delay as a result of the Court process cannot be put against the plaintiff as a matter of law in decreeing specific performance. However, it is within the discretion of the Court, regard being had to the facts of each case, as to whether some additional amount ought or ought not to be paid by the plaintiff once a decree of specific performance is passed in his favour even at the appellate stage."

**\* See also**

- Ferrodous Estates Pvt. Ltd. Vs. P. Gopirathnam (Dead) & Ors. [2020 SCC OnLine SC 825]
- Nirmala Anand Vs. Advent Corpn. Pvt. Ltd. [(2002) 8 SCC 146]

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**IFFCO Tokio General Insurance Company Ltd. Vs. Pearl Beverages Ltd. [2021 SCC Online SC 309]**  
**Date of Judgment: 12-04-2021**

Section 185, Motor Vehicles Act, 1988 — Section 17, Consumer Protection Act, 1986 — Insurance Claim — Exclusion Clause

The insurance claim for a car, completely damaged in an accident, was repudiated by the insurance company based on the Exclusion Clause in the Contract of Insurance, under which the insurer was not liable if the person driving the vehicle was under the influence of intoxicating liquor or drugs. The National Consumer Dispute Redressal Commission (NCDRC) held that the insurer is not entitled to invoke the Exclusion Clause, as there was no material to establish that the driver of the vehicle was under the influence of intoxicating liquor within the meaning of the Exclusion Clause.

In deciding the Appeal against the Order of the NCDRC, the Supreme Court delved into whether the driver was indeed intoxicated by consuming alcohol. The Supreme Court observed that, “where there is no scientific material, in the form of test results available, as in the case before us, it may not disable the insurer from establishing a case for exclusion... A consumer, under the [Consumer Protection] Act, can succeed, only on the basis of proved deficiency of service. ... If the deficiency is not established, having regard to the explicit terms of the contract, the consumer must fail.” The Supreme Court held that the NCDRC had erred in conflating the requirement under Section 185 of the Motor Vehicles Act, with that under the Exclusion Clause in the contract of insurance, and thus set aside the impugned Order.

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**Ripudaman Singh Vs. Tikka Maheshwar Chand [2021 SCC Online SC 457]**

**Date of Judgment: 06-07-2021**

**Section 17(2)(vi), Registration Act, 1908 — Right — Title — Interest of Parties**

While deciding whether a compromise decree requires registration under Section 17(2)(vi) of the Registration Act, 1908, the Hon'ble Supreme Court made a reference to *Bhoop Singh v. Ram Singh Major & Ors., (1995) 5 SCC 709*, wherein it was held that, "the Court must enquire whether a document has recorded unqualified and unconditional words of present demise of right, title and interest in the property and included the essential terms of the same; if the document, including a compromise memo, extinguishes the rights of one and seeks to confer right, title or interest *in praesenti* in favour of the other, relating to immovable property of the value of Rs. 100 and upwards, the document or record or compromise memo shall be compulsorily registered."

In view of the enunciation of law in *Bhoop Singh's* case, the Supreme Court held that, "the judgment and decree of the High Court holding that the decree requires compulsory registration is erroneous in law. The compromise was between the two brothers' consequent to death of their father and no right was being created *in praesenti* for the first time, thus not requiring compulsory registration". Consequently, the Appeal was allowed and the Suit was decreed.

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**Deccan Paper Mills Company Ltd. Vs. Regency Mahavir Properties  
& Ors. [2020 (6) MLJ 524]**

**Date of Judgment: 19-08-2020**

**Section 31, Specific Relief Act, 1963 — Suit for Declaration and Cancellation  
— Cancellation of Deed by Executant and Non-Executants — Procedure**

The Supreme Court held that, "when it comes to cancellation of a deed by an executant to the document, such person can approach the Court under Section 31, Specific Relief Act, 1963, but when it comes to cancellation of a deed by a non-executant, the non-executant must approach the Court under Section 34, Specific Relief Act, 1963. Cancellation of the very same deed, therefore, by a non-executant would be an action *in personam* since a suit has to be filed under Section 34. However, cancellation of the same deed by an executant of the deed, under Section 31, would somehow convert the suit into a suit *in rem*. All these anomalies only highlight the impossibility of holding that an action instituted under Section 31 of the Specific Relief Act, 1963 is an action *in rem*." Thus, the Appeal was dismissed.

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**SUPREME COURT - CRIMINAL CASES****Vinod Dua Vs. Union of India & Ors. [2021 SCC Online SC 414]****Date of Judgment: 03-06-2021**

Section 160, Criminal Procedure Code, 1973 — Sections 124A, 268, 501 and 505, Indian Penal Code, 1860

The Supreme Court held, "... a citizen has a right to criticize or comment upon the measures undertaken by the Government and its functionaries, so long as he does not incite people to violence against the Government established by law or with the intention of creating public disorder; and that it is only when the words or expressions have pernicious tendency or intention of creating public disorder or disturbance of law and order that Sections 124A and 505 of the IPC must step in." The Supreme Court further held that, "can at best be termed as expression of disapprobation of actions of the Government and its functionaries so that prevailing situation could be addressed quickly and efficiently. They were certainly not made with the intent to incite people or showed tendency to create disorder or disturbance of public peace by resort to violence." Writ Petition was allowed.

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**Sanjay Kumar Rai Vs. State of Uttar Pradesh & Anr. [2021 SCC  
Online SC 367]**

**Date of Judgment: 07-05-2021**

Sections 155(2) and 397(2), Criminal Procedure Code, 1973 — Powers of revision

The Hon'ble Supreme Court reflecting upon the decision in *Union of India v. Prafulla Kumar Samal (1979) 3 SCC 4*, observed that, "it is well settled that the trial court while considering the discharge application is not to act as a mere post office. The Court has to sift through the evidence in order to find out whether there are sufficient grounds to try the suspect. The court has to consider the broad probabilities, total effect of evidence and documents produced and the basic infirmities appearing in the case and so on. Likewise, the Court has sufficient discretion to order further investigation in appropriate cases, if need be." The Supreme Court held that, "orders framing charges or refusing discharge are neither interlocutory nor final in nature and are therefore not affected by the bar of Section 397(2) of Cr.P.C ... In the present case, the High Court has committed jurisdictional error by not entertaining the revision petition on merits and overlooking the fact that 'discharge' is a valuable right provided to the accused."

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**Satbir Singh & Anr. Vs. State of Haryana [2021 (3) MLJ (CrI) 46 (SC)]**

**Date of Judgment: 28-05-2021**

Sections 306 and 304B, Indian Penal Code, 1860 — Section 113B, Indian Evidence Act, 1872 — rebuttable presumption of causality

[1] Whether the use of the phrase 'soon before' in Section 304B, IPC, is construed to mean 'immediately before'

[2] Whether a pigeonhole approach in categorizing death as homicidal or suicidal or accidental could be done in cases of Sections 304B and 306 IPC

In dealing with the above-mentioned issues, the Hon'ble Supreme Court, looking into a catena of decisions\* categorically held that, "[A] Section 304-B, IPC must be interpreted keeping in mind the legislative intent to curb the social evil of bride burning and dowry demand, [B] The prosecution must at first establish the existence of the necessary ingredients for constituting an offence under Section 304-B, IPC. Once these ingredients are satisfied, the rebuttable presumption of causality, provided under Section 113-B, Evidence Act operates against the accused, [C] The phrase "soon before" as appearing in Section 304-B, IPC cannot be construed to mean 'immediately before'. The prosecution must establish existence of "proximate and live link" between the dowry death and cruelty or harassment for dowry demand by the husband or his relatives, [D] Section 304-B, IPC does not take a pigeonhole approach in categorizing death as homicidal or suicidal or accidental." The Supreme Court thus set aside the conviction and sentence under Section 306, IPC.

\* **See Also**

- Bansi Lal v. State of Haryana [(2011) 11 SCC 359]

- Commissioner of Customs (Import), Mumbai v. Dilip Kumar & Company [(2018) 9 SCC 1]
- State of Gujarat v. Mansukhbhai Kanjibhai Shah [2020 SCC Online SC 412]
- Kans Raj v. State of Punjab [(2000) 5 SCC 207]
- Major Singh v. State of Punjab [(2015) 5 SCC 201]
- Maya Devi v. State of Haryana, (2015) 17 SCC 405
- Shanti v. State of Haryana [(1991) 1 SCC 371]
- Rajinder Singh v. State of Punjab [(2015) 6 SCC 477]
- Wair Chand v. State of Haryana [(1989) 1 SCC 244]

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**Jayamma & Anr. Vs. State of Karnataka [2021 (2) MLJ (CRL) 550 (SC)]**

**Date of Judgment: 07-05-2021**

Power of the High Court to grant leave under Section 378, Criminal Procedure Code, 1973

[1] Whether the High Court erred in reversing the findings of the trial Court in exercise of its powers under Section 378 of the Cr.P.C.

[2] Whether the prosecution has successfully established that the deceased died a homicidal death at the hands of the appellants

The Supreme Court while deciding on the above-mentioned issues, held that, "The power of scrutiny exercisable by the High Court under Section 378, Cr.P.C should not be routinely invoked where the view formed by the trial court was a 'possible view'." The Apex Court further elaborated that, "...Unless the High Court finds that there is complete misreading of the material evidence which has led to miscarriage of justice, the view taken by the trial court which can also possibly be a correct view, need not be interfered with. This self-restraint doctrine, of course, does not denude the High Court of its powers to re-appreciate the evidence, including in an appeal against acquittal and arrive at a different firm finding of fact." Appellants were acquitted. Appeals were allowed.

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**Kalabhai Hamirbhai Kachhot Vs. State of Gujarat [2021 SCC  
Online SC 347]**

**Date of Judgment: 28-04-2021**

Appeal Against Conviction — Murder Trial — Appreciation of Evidences —  
Benefit of Section 428 of Cr.P.C

The Hon'ble Supreme Court relying upon its previous decisions in *Manohar & Anr. v. State of U. P., (2011) 4 SCC 324* and *State of Uttar Pradesh v. Naresh & Ors., 4 (2002) 7 SCC 606*, held that, "evidence of injured witness cannot be brushed aside without assigning cogent reasons. In all criminal cases, normal discrepancies are bound to occur in the depositions of witnesses due to normal errors of observation, namely, errors of memory due to lapse of time or due to mental disposition such as shock and horror at the time of occurrence. Prosecution has proved the case against all the Appellants/Accused beyond reasonable doubt. The omissions like not seizing the motorcycle and also not seizing the gold chain of one of the victims, by themselves, are no ground to discredit the testimony of key witnesses who were examined on behalf of the prosecution, whose say is consistent, natural and trustworthy." Appeals were dismissed.

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**HIGH COURT - CIVIL CASES****S. Saraladevi Surana Vs. G.S. Sundararaj & Ors. CDJ 2021 MHC  
2974****Date of Judgment: 01-07-2021**

Suit for Specific Performance — Barred by Limitation — Article 54, Limitation Act, 1963 — Willingness to Perform

In an Appeal Suit concerning the specific performance of an agreement to sell, the Hon'ble High Court relying on the decisions of the Supreme Court, observed that, "the suit was barred by limitation as per Article 54, Limitation Act, ... Admittedly, the plaintiff failed to perform his part of the contract on or before 18.06.1992 (the date subsequently fixed for the performance of the contract). Further, the subsequent payment has no effect while computing the period of limitation." Relying on the decisions in *Johnson v. E. Pushpavalli* (2016) 4 CTC 152 & *V. Suresh Kumar v. A. Ramasamy* (2020) 4 CTC 798, the Court found that, "the Plaintiff/Respondent had failed to prove willingness to perform, as it is proved that the plaintiff failed to pay the balance sale consideration within the time fixed as per the agreement for sale, the plaintiff did not take any step to perform his part of the contract and the delay in proceeding against the defendants clearly establishes that the plaintiff was not ready and willing to perform his part of the contract at any point of time". The Court held that, "the Plaintiff is entitled to repayment of the advance amount" and thus set aside the judgment of the Trial Court and partly allowed the Appeal Suit.

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**Manidurai Vs. Vijaya Rengan & Anr. [CDJ 2021 MHC 2789]****Date of Judgment: 24-06-2021****Motor Accident Claims Tribunal — Determination of Disability — Calculation of Compensation — Proof of Income of Claimant**

The Hon'ble High Court partly allowed the appeal seeking enhancement of the compensation fixed by the Motor Accidents Claims Tribunal, and found that, as there was no proof of income of the Appellant/Claimant, the monthly income as fixed by the Tribunal was reasonable. The Court observed that, "the disability as fixed by the doctor is permanent partial disability." Based on the Hon'ble Supreme Court's decision in *Rajkumar v. Ajaykumar, 2011 ACJ 1*, the disability was determined as 56% and the compensation at Rs.3,000/- for each percentage of disability. The compensation fixed by the Tribunal under all other heads was held as reasonable.

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**D. Sivakumar Vs. Parimala [CDJ 2021 MHC 2683]****Date of Judgment: 11-06-2021****Divorce — Cruelty — Lack of Evidence — Permanent Alimony/Maintenance**

The Hon'ble High Court found that, "no case has been made out to invoke Section 13(1)(ia) of the Hindu Marriage Act to dissolve the marriage, as no oral or documentary evidence has been produced by the Appellant/wife to show that the Respondent/husband has caused any cruelty to her, and neither parent of the Appellant/wife came to the witness box to give evidence in support her allegations, despite living in the same house. The Court, relying on a plethora of decisions\* of various High Courts and the Supreme Court held that, "It is well settled legal position that permanent alimony or maintenance to wife under Section 25 of the Hindu Marriage Act cannot be granted if the petition for divorce between the parties is dismissed", and set aside the order granting maintenance and confirmed the order refusing the grant of divorce.

**\* See Also**

- Badri Prasad v. Smt. Urmila Mahobiya [AIR 2001 Madhya Pradesh 106]
- Ranganatham v. Shyamala [AIR 1990 Madras 1]
- Smt. Sushma v. Satish Chandra [AIR 1984 Delhi 1]
- Chand Dhawan v. Jawaharlal Dhawan [(1993) 3 SCC 406]

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**Abdul Sathar Vs. The Principal Secretary to Government, Home Department, Chennai & Ors. [CDJ 2021 MHC 1193]**

**Date of Judgment: 05-02-2021**

**Section 18, Protection of Human Rights Act, 1993 — Enforceability of Adjudicatory Order**

The Hon'ble High Court held that, "The recommendation of State Human Rights Commission under Section 18 of the Protection of Human Rights Act, 1993 is binding on the Government or Authority, and that an Adjudicatory Order is legally and immediately enforceable". The Court observed that on failure to implement the Commission's Recommendations within the time stipulated under Section 18(e) of the Act, the Commission can seek enforcement by issuance of appropriate Writ/Order/Direction under Section 18(b) of the Act, and that the concerned Government or Authority shall not oppose such Petition, unless it has sought judicial review of the Commission's Recommendation. The Court added that the Commission can order recovery of compensation from the State and payable to the victims of human rights violation under Section 18(a)(i) of the Act, and the State in turn could recover the compensation paid, from the Officers of the State who have been found to be responsible for causing the human rights violations, provided the Officer concerned is issued a show cause notice seeking his explanation only on the aspect of quantum of compensation recoverable from him and not on whether he was responsible for causing the human rights violations. It is open to the aggrieved Officers/employees to approach the competent Court to challenge the findings and Recommendations of the Commission.

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**Johrilal Chowdhary (Died) & Ors. Vs. D. Shankar Chettiar [CDJ]**  
**2021 MHC 2682]**

**Date of Judgment: 11-06-2021**

Suit for Mortgage Decree — Admission of Borrowal — Registration of Deposit of Title Deeds — Section 59, Transfer of Property Act, 1882

The Hon'ble High Court observed that, "In the light of the admission made by the Defendant (of the borrowal and the deposit of his title deeds as security to the loan, as a simple mortgage), by virtue of Section 58 of the Evidence Act, 1872 read with Order XII, Rule 6 and Order XV, Rule 1 of the Code of Civil Procedure 1908, the trial Court ought to have decreed the suit filed by the Plaintiffs herein. As it did not do so, the impugned judgment and decree are liable to be interfered with.". The Court further relying on several decisions of the Apex Court\*, found that "deposit of title deeds, being an equitable mortgage, need not be registered". The Court thus held that, "the Plaintiffs are entitled to a mortgage decree as prayed for, as the trial Court has committed serious errors in not following the well settled legal position."

**\* See Also**

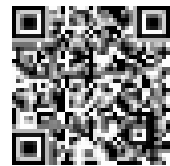
- Rachpal Mahraj v. Bhagwandas Daruka & Ors. [AIR 1950 SC 272]
- United Bank of India Limited v. Lekharam Sonaram and Company & Ors. [AIR 1965 SC 1591]
- Canara Bank thru' its Kovilpatti Branch Manager etc., v. R.Rengasami & Ors. [(1994) 2 LW 305]
- State of Haryana & Ors. v. Narvir Singh & Anr. [(2014) 1 SCC 105]

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**T.K. Kulandaivelu Vs. K.P. Nallusamy [(2021) 4 MLJ 583]****Date of Judgment: 30-04-2021****Section 118, Negotiable Instruments Act, 1881 — Promissory Note —  
Rebuttal of Presumption**

The Hon'ble High Court, relying on the decision in *N.S. Arumugam v. Trishul Traders (2006) 2 MLJ 42*, the found that, "The trial Court was justified in drawing presumption under Section 118 of the Negotiable Instruments Act, 1881 in favour of the plaintiff/appellant herein". The Court observed that, the Defendant had not successfully rebutted the presumption, as no documentary evidence has been adduced, or witness examined to support the contention of the Defendant. The Court held that, "the First Appellate Court has unnecessarily given importance to minor contradictions, and thus answered the substantial question of law in favour of the Appellant/Plaintiff." The Court thus set aside the judgment of the First Appellate Court and restored the judgment of the Trial Court.

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**N. Govindarajan & Anr. Vs. S. Logeswari, Rep. by Power of  
Attorney, S.L. Arokiyasamy [(2021) 5 MLJ 48]**  
**Date of Judgment: 04-03-2021**

Eviction Petition — Vexatious Suits — Forum Shopping — Abuse of Process

In this case, the Hon'ble High Court observed that, "the Respondent repeatedly filed vexatious suits and petitions against the Petitioners. Relying on the decisions in *Tamil Nadu Handloom Weaver's Co-operative Society v. S. R. Ejaz* 2009 (5) CTC 710 and *K. Chandran & Ors. v. V. Geethalakshmi, 2012 (3) MWN (Civil) 832*, the Court held that, "the eviction petition filed by the Respondent is nothing but clear abuse of process of law and also amounts to forum shopping. Having been failed before the civil courts the Respondent filed eviction petition before the Rent Controller". The Court thus allowed the Civil Revision Petition and dismissed the RCOP as abuse of process of law.

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**V. Ramasamy Vs. L. Priya @ Priya Bhuvaneshwari [2021 (4) MLJ  
29]**

**Date of Judgment: 26-04-2021**

Matrimonial Dispute — Divorce — Cruelty and Desertion — Restitution of  
Conjugal Rights — Maintenance — Visitation Rights

The Hon'ble High Court, in an appeal against the Trial Court's judgement rejecting the Appellant's petition for divorce, held that, "although the allegation of cruelty and desertion has been found against the Appellant, the fact that they are living separately for the past 25 long years, and that mediation efforts undertaken also proved to be of no avail, would compel the Court to grant the decree of divorce." Thus, the Court relying on the decision in *Naveen Kohli v. Neelu Kohli, 2006 (2) CTC 510*, granted decree of divorce to the parties, and further granted permanent maintenance to be paid by the Appellant to the Respondent, as per the decision in *Chandrika v. M. Vijayakumar, 1996-1 117 Mad. L. W. 695*, and rejected the Respondent's prayer for restitution of conjugal rights. The Court further, for the reason that the son was with the Respondent for long time till he was taken care of by the Appellant, granted visitation rights to the Respondent mother to visit her son.

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**Saroja & Anr. Vs. Parvathy & Ors. [2021 (4) MLJ 597]**  
**Date of Judgment: 01-06-2021**

Motor Accident Claims Tribunal — Bar of Jurisdiction — Section 175, The Motor Vehicles Act, 1988 — Legal Representative — Rule 2(c), Tamil Nadu Motor Vehicles Accident Claims Tribunal Rules, 1989 — Dependency of legal representatives

The Hon'ble High Court cited the decisions in *Kiran Singh & Ors. v. Chaman Paswan & Ors.*, AIR 1954 SC 340 and *Balvant N. Viswamitra & Ors. v. Yadav Sadhashiv Mule*, 2004 (8) SCC 706, and held that, "in the light of the bar contained under Section 175 of The Motor Vehicles Act, the finding rendered by the Tribunal with regard to the entitlement of compensation to the Respondents 1 and 2, has no significance. The learned District Munsiff had travelled beyond jurisdiction and rendered such finding".

The Court further, relying on the decision in *Gujarat State Transport Corporation vs. Raman Bhat*, AIR 1987 SC 1690, found that "according to Rule 2(c) of the Tamil Nadu Motor Vehicles Accident Claims Tribunal Rules, 1989, which has been framed by virtue of the powers conferred under Section 176 of The Motor Vehicles Act, 'Legal Representatives' shall have the meaning assigned to it under clause (11) of Section 2 of the Code of Civil Procedure, 1908 (Central Act V of 1908)".

The Court further, relying on a plethora of decisions\* reaffirmed the position of law that "mere status of legal representative alone is not sufficient to make a claim. Thus, the basis for entitlement for compensation is dependency. ... Therefore, considering the evidence, prima-facie, the



respondents 1 and 2 proved their dependency. Therefore, we do not find any infirmity in awarding compensation to the claimants/respondents 1 and 2." Thus, the Court sustained the award of compensation passed by the Tribunal and dismissed the appeal.

**\* See Also**

- Sarla Verma & Ors. v. Delhi Transport Corporation & Anr. [2009 ACJ 1298]
- Manjuri Bera v. Oriental Insurance Company Limited [2007 (1) TN MAC 385]
- Gujarat State Road Transport Corporation v. Ramanbhai [AIR 1987 SC 1690]
- National Insurance Company Limited v. Birender & Ors. [2020 (1) TN MAC 182]

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**Subbaiya Gounder Vs. Velathal & Ors. [CDJ 2021 MHC 118]****Date of Judgment: 19-01-2021****Suit for Partition — Character of Suit Properties — Authenticity of Will**

The Hon'ble High Court, reiterating the position of law as held in *Narasamma & Ors. v. A. Krishnappa*, 2020 SCC OnLine SC 672, held that, "the plea of title raised by the first defendant and the plea of adverse possession put forth by him cannot be validly upheld in the eyes of law." The Court, rejected the claim of the Plaintiff, as the Plaintiff "not evincing any interest to claim share in the suit properties after the demise of her father and chosen to lay the present suit only in the year 2001". The Court, further held that "the first appellate Court has failed to appreciate the oral and documentary evidence adduced in the matter in the proper perspective and without any discussion on the evidence tendered in the matter, both oral and documentary, erroneously proceeded to hold that the suit properties are the self-acquired properties of the deceased Ramasamy Gounder and that the Will projected by the first defendant Ex. B36 executed by the deceased Ramasamy Gounder is not a true document." The Court thus answered the substantial questions of law in favour of the first Defendant and set aside the judgment of the First Appellate Court and confirmed the judgment of the Trial Court.

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**HIGH COURT – CRIMINAL CASES****Vidya Vs. The State Rep. by the Inspector of Police, Madhavaram,  
Chennai & Another CDJ 2021 MHC 3021****Date of Judgment: 06-07-2021****Petition under Section 239 Cr.P.C — Discharge**

The Hon'ble High Court observed that, "It is settled proposition of law that, at the time of deciding a petition under Section 239 of Cr.P.C, seeking discharge, the Court has to see whether there exist any *prima facie* materials to proceed with the case and the defence taken by the accused need not be looked into at the time of framing of charges. It is settled proposition of law that while considering petition for discharge of the accused, allegations and materials in the documents filed by the prosecution in the report under Section 173, Cr.P.C must be considered and not the defence taken by the accused." The Court held that probative value of the evidence need not be gone into at the stage of framing of charges. The Court further held that a *prima facie* case was made out, based on the final report and the documents annexed thereto. The Court also added that it did not find any reason to interfere with the Order of the Trial Court.

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**Senthil Kumar & Anr. Vs. The State of House Officer, Kodumodi  
Police Station, Erode & Anr. [CDJ 2021 MHC 2981]**

**Date of Judgment: 06-07-2021**

Satisfaction of sufficient ground before taking cognizance

In deciding a Criminal Original Petition, the Hon'ble High Court relying upon various decisions of the Supreme Court which deprecated the practice of taking cognizance through "Rubber Stamp" orders, reiterated the dictum of the Supreme Court in *Sunil Bharti Mittal v. Central Bureau of Investigation (2015) 4 SCC 609*, that, "taking cognizance is a judicial act which requires application of mind". In this case the Hon'ble High Court held that, "the Learned Magistrate while entertaining the complaint under Section 200 Cr.P.C., and taking cognizance, must record his satisfaction for issuance of process and further the Learned Magistrate has to satisfy sufficient ground for proceeding further in respect of the complaint." The Hon'ble High Court allowed Criminal Original Petition and closed all miscellaneous petitions.

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**Kanagaraj Vs. The State Rep. by Inspector of Police, Kottur Police Station, Coimbatore [CDJ 2021 MHC 2980]**

**Date of Judgment: 06-07-2021**

Delay in sending Statements under Section 161, Cr.P.C. to Judicial Magistrate by Investigating officer — Not fatal to prosecution

The Hon'ble High Court while deciding whether the act of the Investigating Officer not forwarding the statements recorded under Section 161, Cr.P.C. to the Judicial Magistrate immediately, is fatal to the prosecution, held that, "In this aspect, it is necessary for the Accused/Appellant to show in what way due to the said lapse he got prejudiced. But herein, to substantiate his contention, none of the circumstances were indicated on the side of the Accused. Therefore, we are of the opinion that, not sending the records immediately to the Court is only a defect committed by the I.O." Relying on the Supreme Court's decision in *2010 (3) SCC (Cri.) 1402*, the Hon'ble High Court held that, "the defect committed by the investigation officer is not at all sufficient to disbelieve the entire case of the prosecution". Thus, the Criminal Appeal was dismissed and the impugned order of conviction and sentence was confirmed.

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**Irfan Vs. The Inspector of Police, All Women Police Station,  
Krishnagiri [CDJ 2021 MHC 3027]  
Date of Judgment: 05-07-2021**

Contradiction in evidence of victim — Section 164(5), Cr.P.C. — Section 6, POCSO Act, 2012

The Hon'ble High Court observed that, the statement of the victim recorded under Section 164(5) Cr.P.C is not a substantive piece of evidence. It can be used for corroboration or contradiction. The Court added that, if the evidence of sole witness is cogent, credible and trust worthy, conviction is permissible.

The Court found that, "the victim girl was subjected to penetrative sexual intercourse by A1. Hence, A1 has committed the offence under Section 366 IPC and Section 5(a)(i) which is punishable under Section 6 of POCSO Act, for which A2 abetted and also aided A1 to commit the said offence. Therefore, A2 committed the offence under Section 366A IPC. Under these circumstances, this Court can safely come to the conclusion that the Appellant/A2 has committed the said offence and the prosecution has established its case beyond all reasonable doubt." Appeal was dismissed.

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**Sadam Hussain Vs. State by The Inspector of Police, Chennai [CDJ  
2021 MHC 1634]**

**Date of Judgment: 05-03-2021**

Appreciation of evidence — Failure of prosecution to prove case beyond reasonable doubt

The Hon'ble High Court in deciding an Appeal against conviction, found that, [1] not all names of the Accused persons were disclosed in the FIR [2] No explanation had been offered by the prosecution for the delay in the FIR reaching the Court [3] The respondent had not taken steps to enquire the doctor who treated P.W.1, with regard to the injuries sustained by P.W.1. [4] Though, failure to hold the Test Identification Parade is not a fatal to the prosecution, it is necessary that the Trial Court, need to be circumspect in identification of an Accused by a witness for the first time in Court, if the Accused is a stranger to the witness. The Court held that the prosecution has failed to prove its case beyond all reasonable doubt, and that the Trial Court without proper appreciation of evidence of the witnesses and materials on record had erred in convicting the Appellant/Accused on the basis of uncorroborated and doubtful evidence of P.W.1, which is in conflict with the other evidence and thereby the Appellant/Accused is entitled to the benefit of doubt. Thus, the Court allowed the Appeal and set aside the judgment of the Trial Court.

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**State by the Inspector of Police, Shankar Nagar Police Station,  
Chennai & Anr. Vs. M. Dhamodaran @ Prakash & Anr. [CDJ 2021  
MHC 2826]**

**Date of Judgment: 28-06-2021**

Sections 302 and 309 IPC — Parricide — Attempt to Commit Suicide —  
Modification of Sentence — No Statutory Remission or Commutation

The Hon'ble High Court in a case of parricide found that, "though the evidence on record leads us to the inference that the Appellant attempted to commit suicide after doing away with his near and dear ones and therefore, he would be punishable under Section 309 IPC., we lay this matter to rest as the State has not preferred any appeal assailing the Appellant's acquittal of this charge."

The Court upheld the conviction of the Appellant under Section 302, IPC, and relying on the decision in *Union of India vs. V. Sriharan @ Murugan and others, (2016) 7 SCC 1*, further held that, "we are convinced that this case does not come within the category of "rarest of rare cases" for awarding capital punishment, by applying the principles laid down by the Supreme Court in *Bachan Singh vs. State of Punjab, (1980) 2 SCC 684*. ... we modify the sentence of death penalty into one of life imprisonment with a rider that the appellant will not be entitled to any statutory remission or commutation until he completes 25 years of actual imprisonment. This rider is added because he has to suffer this long at least for the mindless violence he had let loose on the hapless victims, all because, he being a coward, lacked the courage to face the financial crunch he was into."

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**Union of India Rep. by the Inspector of Police, National Investigation Agency, Chennai Vs. Vivekanandan @ Vivek @ Raja @ Balan & Anr. [CDJ 2021 MHC 2825]**  
**Date of Judgment: 28-06-2021**

**Section 21, National Investigation Agency Act, 2008 — Unlawful Activities Prevention Act, 1967 — Grant of Bail — Section 167(2), Cr.P.C**

In a Criminal Appeal preferred under Section 21 of the National Investigation Agency Act, to cancel the bail granted to the Respondent before the Hon'ble High Court. The Hon'ble High Court deciding upon the issue whether the grant of bail was right in law answered on the affirmative by holding that, "the State had acted in a cavalier manner for extinguishing the statutory right of a prisoner to be released on default bail under Section 167(2) Cr.P.C." As a sequel, CrI.A.No.275 of 2021 was dismissed.

**See Also**

- Maulavi Hussein Haji Abraham Umarji v. State of Gujarat & Anr. [(2004) 6 SCC 672]
- C.B.I., Special Investigation Cell-I, New Delhi v. Anupam J. Kulkarni [(1992) 3 SCC 141]
- Rambeer Shokeen v. State (NCT of Delhi) [(2018) 4 SCC 405]
- Bikramjit Singh v. State of Punjab [(2020) 10 SCC 616]
- Hitendra Vishnu Thakur v. State of Maharashtra [(1994) 4 SCC 602]

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**S. Padma Vs. State of Tamil Nadu, Rep. by the Secretary to  
Government [2021-2-L.W.(CrI) 59]**  
**Date of Judgment: 17-06-2021**

Right of convicts to contact family members through video call — Articles 14,  
19 and 21, Constitution of India, 1950

In deciding a Habeas Corpus Petition to permit the convicts to talk to their family members residing outside India, over video call, the Hon'ble High Court found that, "A perusal of G.O.Ms.No.524, Home (PrI.III) Department, dated 16.09.2011 would disclose that the authorities could allow the prisoners to use the telephone facility and there is no prohibition under the said Government Order prohibiting the prisoners from having telephonic conversation with the relatives in foreign countries. If the relatives are unable to come over to India to meet the prisoner due to lack of funds or circumstances, it cannot be put against the prisoners." The Court made a reference to the Supreme Court's decisions in *suo motu WP(C).No.1/2020, by an order dated 23.03.2020, Sunil Batra (II) v. Delhi Administration, (1980) 3 SCC 488* and *Francis Coralie Mullin v. The Administrator, Union Territory of Delhi & Ors., AIR 1981 SC 746* and observed that, "If the convicts are not permitted to have conversation with their grieving family members, it would amount to violation of Article 14, 19 and 21 of the Constitution of India." The Court further directed the authorities to videograph the conversation, and if any conversation apart from family matters are discussed, the authorities are at liberty to disconnect the call.

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**Ramesh Vs. State Rep. by its All Women Police Station, Cuddalore**  
**[CDJ 2021 MHC 2636]**

**Date of Judgment: 14-06-2021**

Consensual Sexual Act — Misconception/False Promise — Section 374(2), Cr.P.C — Sections 376 and 417, IPC

In a Criminal Appeal filed under Section 374(2) of Cr.P.C. to set aside the Judgment of conviction and sentence under Secs. 376 & 417 of IPC, the Hon'ble High Court held that, "Taking into consideration the overall circumstances in this case, ... false promise itself has no immediate relevance and also does not bear direct nexus to the decision of the prosecutrix to engage in the sexual act." Further, it was held that, "...prosecutrix agrees to have sexual intercourse on account of her love and passion for the accused and not solely on account of the misconception created by the accused. If the Appellant had any malafide intention and if he had clandestine motives, it could be brought into the ingredient of rape. The acknowledged consensual physical relationship between the parties would not constitute the offence under Sec. 376 IPC. Further as stated above no evidence has been made out for the offence u/s. 417 I.P.C." Thus, the Hon'ble High Court, allowed the Criminal Appeal and set aside the Judgment of conviction made by the Sessions Judge i/c Mahila Court, Cuddalore District.

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**State Rep. by the Inspector of Police, Chennai Vs. Dr. M.  
Manikandan [CDJ 2021 MHC 2969]**  
**Date of Judgment: 02-07-2021**

Collection of evidence — Obscene photos of victim sent to victim — Section 482, Cr.P.C – Sections 417, 376, 313, 323 and 506(i), IPC r/w 67A, Information Technology Act, 2000.

In a Criminal Original Petition filed under Section 482 of the Cr.P.C., for offence under Sections 417, 376, 313, 323 and 506(i) IPC r/w 67A of Information Technology Act. During investigation, the police were unable to find out where the mobile phone was available, the mobile phone was switched off, and not active, hence could not be traced. The Respondent is having exclusive knowledge about the concealed mobile phone and the said mobile phone is very much necessary and a vital material for the investigation of the above case. In the light of the circumstances, the Hon'ble High Court held that, "...investigation is nothing but evidence collection. ... The seizure and verification are imminent to complete the chain of events with conclusive evidence." Thus, the Hon'ble High Court directed for the police custody of the Respondent for a period of two days and the order of the Lower Court to be set aside.

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