TAMIL NADU STATE JUDICIAL ACADEMY

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IMPORTANT CASE LAWS

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TABLE OF CONTENTS

SUPREME COURT – CIVIL CASES 1

Muddam Raju Yadav Vs. B.Raja Shanker (D) thr. LRs & Ors. [Civil Appeal No. 3255 of 2026 (2026 INSC 214)] 1

Andanayya Vs. Deputy Chief Engineer & Ors. [Special Leave Petition (Civil) Nos. 2587 - 2593 of 2021 (2026 INSC 293)] 3

Krishnavathi Sharma Vs. Bhagwandas Sharma and Ors. [Civil Appeal No.3476 of 2026)] 6

Gajanan Vs. Pralhad [Civil Appeal No. 3524 of 2026] 9

Sushila Vs. Sudhakar [Special Leave Petition (Civil) No. 21717 of 2025]................................12

SUPREME COURT – CRIMINAL CASES..15

Sivakumar Vs. State Represented By The Inspector of Police [Criminal Appeal No. 1807 of 2019 (2026 INSC 318)] 15

Hem Raj Vs. State of Himachal Pradesh [Special Leave Petition (Criminal) No. 19691 of 2025 (2026 INSC 332)] 17

Renuka Vs. The State of Maharashtra And Another [Special Leave Petition (Criminal) No. 7829 of 2023 (2026 INSC 327)] 19

Accamma Sam Jacob Vs. The State of Karnataka & Anr. Etc., [Diary No(s). 20175 of 2022 (2026 INSC 362)] 21

Dhananjay Rathi Vs. Ruchika Rathi [Criminal Appeal Nos. 1924 of 2026 (2026 INSC 360)]23

HIGH COURT – CIVIL CASES 26

Dr. D.Murugan Vs. G.Vijayan & Another [A.S. No.820 of 2015 and M.P. No.1 of 2015] [2026 (1) TLNJ 114 (CIVIL)] 26

Dr. Narendran Vs Dr. Narmada [C.M.A. No.130 of 2020] [2026 (1) TNLJ 125 (CIVIL)]......29

R.V.Venkateshan Vs Sanjay & Others [CRP No.5650/2025 AND CMP. No.28269/2025] [2026 (1) TLNJ 130 (CIVIL)] 31

Murugan Asari Vs. Chinnammal & Others [S.A. No.16/2014 and M.P. Nos.1 & 2/2014 and C.M.P. Nos.5267 & 6494/2020] [2026 (1) L.W. 800]..33

Dr.Lakshmi Murali Vs. M.Rajan and Another [S.A. Nos.107 & 610/2019 and C.M.P. Nos.2353/2019] [2026 (1) L.W. 840] 38

HIGH COURT – CRIMINAL CASES 42

Rani Vs. The State Rep. by Inspector of Police, Pennadam Police Station, Cuddalore District & Others [Crl. A. No.440/2019] [2026 (1) L.W.(Crl.) 429] 42

Murugesh Vs. State, rep. by the Inspector of Police, Arumanai Police Station, Kanyakumari District [Crl. A(MD) No.413 of 2023] [2026 (1) MWN (Cr.) 351 (DB)].....................................47

R.Raman Vs. R.Balaji Ram [Crl. O.P.(MD) No.4045/2026] [2026 (1) M.W.N.(Cr.) 420] 50

Manikandan Vs. State, rep. by the Inspector of Police, Velur Police Station, Namakkal District [Crl. A. No.131 of 2022] [2026 (1) MWN (Cr.) 401] 52

SUPREME COURT – CIVIL CASES

Muddam Raju Yadav Vs. B.Raja Shanker (D) thr. LRs. & Ors. [Civil Appeal No. 3255 of 2026 (2026 INSC 214)]

Date of Judgment: 10.03.2026

Specific Relief Act, 1963 – Section 16(c) - Suit filed for specific performance – Trial Court decreed the suit – High Court reversed the finding and dismissed the suit – Held : The defendants stated that the sale agreement executed by way of security for a loan - The execution of the MoU made out a very strong probable case to prove that the subject agreement was a sham and a nominal document - In a suit for specific performance, the conduct of the parties is significant as it assists the Court in evaluating the evidence to find out the bona fides of the parties at the time of execution of the agreement and even a slight doubt in the mind of the Court that the plaintiff was not acting bonafidely and that the material facts, having bearing on the agreement, have been withheld in the agreement itself and from the Court also, the equitable and discretionary relief has to be denied - A plaintiff approaching the Court with unclean hands, like in the present case—the plaintiff having withheld the document i.e., MoU (Exhibit B-2), as the same was nowhere mentioned in the plaint, the present was a fit case for denial of relief of specific performance - High Court rightly allowed the appeal preferred by the respondent(s)/defendant(s) – Appeal dismissed.

The appellant - plaintiff has filed this appeal against the Judgment of the High Court, whereby the Judgment of the Trial Court decreeing the suit for specific performance of the agreement of sale was set aside resulting in the dismissal of the suit.

The appellant – plaintiff filed a suit for specific performance contending that the defendant had executed a registered agreement to sell on receiving a sum of Rs.6 lakh as advance and since the defendant failed to perform his part of the contract, after legal notice, the suit was filed. The defence is that the alleged agreement was executed only for purpose of loan transaction and it is not a sale transaction. The Trial Court decreed the suit on the reasoning that the defendants had not denied the execution of the agreement and since the plaintiff had required funds for payment of the balance sale consideration as reflected in the bank account statement, he was always ready and willing to perform his part of the contract and was entitled to a decree of specific performance. The High Court allowed the defendants' appeal setting aside the Judgment of the Trial Court. Hence, the appeal.

The Hon'ble Supreme Court observed that it was the case of the defendants from the very beginning that the sale agreement was executed by way of security for a loan of Rs.6 lakh advanced by the plaintiff to the defendants and the same was clearly reflected as recited in the MoU. The said MoU was on a non-judicial stamp paper and the no-objection letter executed by the sons of the defendant was on Rs.100 non-judicial stamp paper and both the documents were dated 04.06.2002 and purchased from the same stamp vendor. The witnesses to both the documents were also one and the same. All these would probablise the defence of the defendant(s) that the agreement of sale was not a genuine transaction but was executed as a security for a loan transaction. The execution of the MoU made out a very strong probable case to prove that the subject agreement was a sham and a nominal document. In a suit for specific performance, the conduct of the parties is significant as it assists the Court in evaluating the evidence to find out the bona fides of the parties at the time of execution of the agreement and even a slight doubt in the mind of the Court that the plaintiff was not acting bonafidely and that the material facts, having bearing on the agreement, have been withheld in the agreement itself and from the Court also, the equitable and discretionary relief has to be denied. A plaintiff approaching the Court with unclean hands, like in the present case—the plaintiff having withheld the document i.e., MoU (Exhibit B-2), as the same was nowhere mentioned in the plaint, the present was a fit case for denial of relief of specific performance and the High Court has rightly allowed the appeal preferred by the respondent(s)/defendant(s) to set aside the judgment and decree passed by the Trial Court. Thus, finding no substance in the appeal, the Hon'ble Supreme Court dismissed the appeal.

Andanayya & Ors. Vs. Deputy Chief Engineer & Ors. [Special Leave Petition (Civil) Nos. 2587 - 2593 of 2021 (2026 INSC 293)]

Date of Judgment: 25.03.2026

Land Acquisition Act, 1894 – Sections 4(1), 11, 18, 28-A & 54 – Scope of Section 28-A regarding re-determination of compensation based on Appellate Court's award – Doctrine of Merger – Appeals filed against the finding of the Division Bench of High Court that re-determination of compensation under Section 28-A applies only to awards of the Reference Court and not Appellate Courts – *Held :* Once an award is passed by High Court, earlier one passed by Reference Court ceases to exist, and stands subsumed within award of High Court – The same is case when an award is passed by Supreme Court – Neither law nor the Act recognizes existence of two awards emanating from the same proceedings, simultaneously – There can only be one decree or order in operation at a given point of time – Even a second application made under Section 28-A after award passed by High Court is maintainable and entitled to be considered by Collector/LAO – Entertaining an earlier application filed under Section 28-A on the basis of award of Reference Court followed by receipt of money, shall not act as a bar for same applicant to seek further re-determination of compensation on the basis of award passed by High Court or this Court – It is the Doctrine of Merger that comes into application in such circumstances – Benefit of enhanced compensation received by a landowner, consequent to final award passed by appellate forum, would also extend to similarly placed landowners who seek redetermination of compensation under Section 28-A – The object of Section 28-A is to maintain parity and equality between similarly placed landowners in payment of compensation – Question of estoppels, waiver or acquiescence would not arise, in view of statutory prescriptions under Section 28-A – In the absence of any statutory prohibition, there is no bar for appellants to seek re-determination of compensation on the basis of

award of High Court, even if they had previously filed application after the award of Reference Court – Impugned Judgment and Collector's order of rejection set aside – Directed to re-determine the compensation in the light of High Court Judgment.

The appellants have filed these appeals against the Judgment of the Division Bench of the High Court holding that re-determination of compensation under Section 28-A of the Land Acquisiton Act, 1894 applies only to awards of the Reference Court and not Appellate Courts.

The lands belongs to the appellants and others have been acquired for construction of a railway line and compensation was initially fixed at Rs.40,000/- per acre and on reference by certain landowners, the Reference Court fixed the compensation at Rs.2,00,000/- per acre and based on the same, the appellants, who had not sought reference, invoked Section 28-A and secured re-determination of the compensation. Thereafter, the High Court further enhanced the compensation to Rs.3,50,000/- per acre in the appeals filed by other land owners and on the basis of which, the appellants filed a second application under Section 28-A seeking re-determination of the earlier compensation, which was rejected by the Collector. On filing writ petition, the Single Judge of the High Court allowed the application of the appellants, but the Division Bench has reversed it holding that Section 28-A applies only to awards of the Reference Court and not appellate courts. Hence, the appeals.

The Hon'ble Supreme Court observed that the heading of Section 54 of the Act which speaks about appeals to the High Court and this Court, would clearly indicate that the appeals are in proceedings before the Court. Therefore, the terms "High Court" or "Supreme Court", are to be understood with reference to their nomenclature and, thus, they are also Courts under the scope of Section 28-A. Once an award is passed by the High Court, the earlier one passed by the Reference Court ceases to exist, and stands subsumed within the award of the High Court. The same is the case when an award is passed by this Court. Neither the law nor the Act recognizes the existence of two awards emanating from the same proceedings, simultaneously. There can only be one decree or order in operation at a given point in time. Even a second application made under Section 28-A after award passed by High Court is maintainable and entitled to be considered by the Collector/Land Acquisition Officer. Entertaining an earlier application filed under Section 28-A on the basis of award of Reference Court followed by receipt of money, shall not act as a bar for same applicant to seek further re-determination of compensation on the basis of award passed by High Court or this Court. It is the Doctrine of Merger that comes into application in such circumstances. The benefit of enhanced compensation received by a landowner, consequent to final award passed by the appellate forum, would also extend to similarly placed landowners who seek redetermination of compensation under Section 28-A. The object of Section 28-A is to maintain parity and equality between similarly placed landowners in payment of compensation. Question of estoppels, waiver or acquiescence would not arise, in view of statutory prescriptions under Section 28-A. In the absence of any statutory prohibition, there is no bar for the appellants to seek re-determination of compensation on the basis of award of High Court, even if they had previously filed application after award of Reference Court. The Hon'ble Supreme Court ultimately set aside the impugned Judgment and the Collector's order of rejection and directed to re-determine the compensation.

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Krishnavathi Sharma Vs. Bhagwandas Sharma and Ors. [Civil Appeal No.3476 of 2026)]

Date of Judgment: 23.03.2026

Karnataka Stamp Act, 1957 – First Proviso to Section 34, Sections 37, 38 and 39 – Admissibility of insufficiently stamped documents and the corresponding penalties under the Karnataka Stamp Act, 1957 ("the Act") – Suit for partition and recovery of mesne profits filed – Two applications filed by first defendant seeking to reject certain documents as inadmissible and impound the same – Rejected by Trial Court – High Court in a petition under Article 227 of the Constitution of India reversed the order and issued directions to pay deficient stamp duty and exempted penalty – *Held :* Non-payment of stamp duty is a curable defect – Inadmissibility of insufficiently stamped instruments and impounding thereof, when it is brought before a person or authority empowered to take evidence, is a statutory mandate – Payment of deficit duty and penalty of rupees five also is a statutory mandate which does not fall for any discretion – However, if party producing instrument opts under first proviso to Section 34, there lies no discretion on Court in imposing penalty less than ten times deficit duty – But when copy of duly stamped instrument, with penalty paid at ten times, is sent to Deputy Commissioner (DC) under Section 37(1), Deputy Commissioner (DC) has discretion to refund penalty above five rupees fully or partially under Section 38 – On other hand, if insufficiently stamped instrument is transmitted to DC under Section 37(2) then discretion on question of penalty kicks in under Section 39 – Option is given to the plaintiff, who has produced the document, to either approach the Court under Section 34 or seek that the document be made over to the Deputy Commissioner for determination of deficit duty and imposition of penalty, at his discretion – If the document is made over to the Deputy Commissioner, the Deputy Commissioner shall issue notice to the lessees, who have the

liability, before carrying out the exercise provided under Section 39 – Imposition of penalty is the discretion of Deputy Commissioner (DC) but on imposing such penalty, payment of deficit duty and penalty would be on lessee as is provided under the Act – Impugned Judgment set aside – Appeal disposed of.

The appellant – first defendant has filed this appeal against the order of the High Court directing to pay deficient stamp duty and exempted penalty in respect of two documents produced in evidence by the plaintiff before the Trial Court in a suit for partition.

The first respondent – first plaintiff alongwith other plaintiffs filed a suit for partition and recovery of *mesne* profits. Pending suit, the first respondent – first plaintiff filed two documents on his side. The appellant – first defendant resisted the same as inadmissible in evidence and impound the same as per the Karnataka Stamp Act, 1957. The Trial Court rejected the same, but the High Court in a petition under Article 227, reversed the order and issued directions to pay the deficient stamp duty and exempted penalty. Hence, the first defendant is in appeal on the ground of the High Court having travelled beyond its jurisdiction and asserting the mandatory nature of penalty imposition, which power is on the Deputy Commissioner under the Act.

The Hon'ble Supreme Court observed that the non-payment of stamp duty is a curable defect. Inadmissibility of insufficiently stamped instruments and impounding thereof, when it is brought before a person or authority empowered to take evidence, is a statutory mandate. The payment of deficit duty and penalty of rupees five also is a statutory mandate which does not fall for any discretion. However, if party producing instrument opts under first proviso to Section 34, there lies no discretion on Court in imposing penalty less than ten times deficit duty. But when copy of duly stamped instrument, with penalty paid at ten times, is sent to Deputy Commissioner (DC) under Section 37(1), Deputy Commissioner (DC) has discretion to refund penalty above five rupees fully or partially under Section 38. On the other hand, if insufficiently stamped instrument is transmitted to Deputy Commissioner (DC) under Section 37(2) then discretion on question of penalty kicks in under Section 39. Observing as above, the Hon'ble Supreme Court set aside the impugned Judgment and finding that the matter is pending before the Trial Court for long, gives option to the plaintiff to either approach the Court under Section 34 or seek that the document be made over to the Deputy Registrar for determination of deficit duty and imposition of penalty, at his discretion. If the document is made over to the Deputy Commissioner (DC), the Deputy Commissioner (DC) shall issue notice to the lessees, who have the liability, before carrying out the exercise provided under Section 39. The imposition of penalty is the discretion of the Deputy Commissioner (DC) but on imposing such penalty; the payment of deficit duty and the penalty would be on the lessee as is provided under the Act. The appeal is disposed of with directions.

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Gajanan Vs. Pralhad [Civil Appeal No. 3524 of 2026]

Date of Judgment: 18.03.2026

Civil Procedure Code, 1908 – Order XLI, Rule 1 r/w. Section 96, Order XX, Rule 12 and Order XXIX, Rule 35 – Limitation Act, 1963 – Article 136 – Limitation period starts from dismissal date of appeal for execution of decree – Suit for declaration and recovery of possession by removal of encroachment alongwith payment of *mesne* profits filed – Decreed – Appeal dismissed for default – Writ petition filed challenging the Trial Court's order allowing execution proceedings – High Court allowed the writ petition finding that the execution petition was held to be barred by limitation – *Held :* An appeal is intrinsically a continuation of the suit and thus, even if an appeal against an order or decree of the Trial Court is dismissed on any preliminary or technical ground, such as limitation or non-prosecution, rather than the merits of the case, it still gives rise to a fresh starting point for the limitation period for execution of such order or decree – The original decree of the Trial Court cannot be deemed as "final" as long as the appeal against the same remains pending – Limitation period for execution of the decree accrued on the date of dismissal of the appeal and the execution application filed was within time – Courts should avoid adopting a hyper-technical approach in matters of limitation – A layperson, unfamiliar with the letter of law, may mistakenly believe that execution proceedings can only commence once an appeal against the decree has been finally disposed of – Even lawyers under a bonafide belief, may advise their clients to initiate execution proceedings only after final disposal of all appellate proceedings – Courts are expected to adopt a more liberal and pragmatic stance, ensuring that substantive rights are not defeated by rigid adherence to procedural rules, thereby striking a fair balance between justice and procedure – No party can take advantage of its own wrong – Appeal was dismissed for default due to the constant absence of Judgment Debtor and thus, he cannot be

allowed to gain benefit out of such dismissal – Appeal allowed restoring the Trial Court's decision.

The appellant – decree holder has filed this appeal against the decision of the High Court that the execution petition was held to be barred by limitation holding that the dismissal of first appeal did not amount to a decree and the decree of the Trial Court continued to be enforceable from the date it was passed.

The appellant has filed a suit for declaration and recovery of possession by removal of encroachment alongwith payment of *mesne* profits, which was decreed and first appeal was dismissed for default due to the repetitive non-appearance of the respondent. The execution proceedings initiated by the appellant, though resisted by the respondent, was allowed. Against which, the respondent filed a writ petition, which was allowed as the execution petition is barred by limitation. Hence, the appeal.

The Hon'ble Supreme Court observed that an appeal is intrinsically a continuation of the suit and thus, even if an appeal against an order or decree of the Trial Court is dismissed on any preliminary or technical ground, such as limitation or non-prosecution, rather than the merits of the case, it still gives rise to a fresh starting point for the limitation period for execution of such order or decree. The original decree of the Trial Court cannot be deemed as "final" as long as the appeal against the same remains pending. Thus, the order of dismissal of the appeal finally disposes of the matter and confirms the decree of the Trial Court, even if such dismissal is for reason of non-prosecution. The order dated 25.11.2004, which dismissed the appeal in default, was thus a "final order" as it finally confirmed the decree of the Trial Court and disposed of the appeal. Therefore, the limitation period for execution of the decree dated 03.12.1999 accrued on the date of dismissal of the appeal i.e. 25.11.2004 and the execution application filed on 04.12.2015 was within time, if we compute the period of 12 years from 25.11.2004. Courts should avoid adopting a hyper-technical approach in matters of limitation. A layperson, unfamiliar with the letter of law, may mistakenly believe that execution proceedings can only commence once an appeal against the decree has been finally disposed of. Even lawyers under a *bona-fide* belief, may advise their clients to initiate execution proceedings only after final disposal of all appellate proceedings. In such circumstances, courts are expected to adopt a more liberal and pragmatic stance, ensuring that substantive rights are not defeated by rigid adherence to procedural rules, thereby striking a fair balance between justice and procedure. It also becomes imperative to note that no party can take advantage of its own wrong. The appeal was dismissed in default only due to the constant absence of the Judgment Debtor and thus, he cannot be allowed to gain benefit out of such dismissal. Accordingly, the appeal was allowed, and the Executing Court's order allowing the application was restored.

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Sushila & Ors. Vs. Sudhakar & Anr. [Special Leave Petition (Civil) No. 21717 of 2025]

Date of Judgment: 10.03.2026

Motor Vehicles Act, 1988 – Sections 166 and 168 – Legal Heirs of deceased Railway employee, who is aged about 59 years and died due to motor accident, claimed compensation – While calculating compensation, Tribunal deducted 50% from deceased's monthly salary finding that he had only 6 months of service left – High Court upheld – *Held :* The cardinal principle of awarding compensation in the cases of motor accidents is to provide a "just compensation" to the victim and/or the distressed dependents of the deceased – The term "just" implies that the compensation must be fair, reasonable and equitable as per the applicable legal standards – Compensation should not be too meagre, nor should it be excessive – Sole foundation of providing monetary compensation is to make efforts to put the dependents of the deceased at the same financial position that they were in, had the accident not occurred – Any deduction which is not related to the accident, is impermissible in law – The deceased was nearing retirement is irrelevant for the purpose of determining income at the time of death – The law does not allow courts to divide the earning period into pre-retirement and post-retirement phases for the purpose of reducing compensation – As per settled law in the case of *Sarla Verma and Ors. vs. Delhi Transport Corporation and Anr., [(2009) 6 SCC 121],* the multiplicand is always determined on the basis of the "annual" income of the deceased so as to ensure uniformity and consistency in the calculation of motor accident claim cases - In line with the principles laid down in *National Insurance Co. Ltd. vs. Pranay Sethi and others [(2017) 16 SCC 680],* compensation towards future prospects is to be enhanced from 10% to 15% - The compensation is enhanced by applying correct principles, viz., full salary without arbitrary deduction,

appropriate deduction for personal expenses and correct addition for future prospects – Appeal disposed of.

The claimants – legal heirs of the deceased Railway employee aged about 59 years, who died in an accident due to the rash and negligent act of rider of a motor bike, filed this appeal against the Judgment of the High Court seeking enhancement of compensation.

The widow and children of the deceased filed a claim petition seeking compensation contending that the deceased was earning Rs.25,507/- per month. The Tribunal fixed salary of the deceased as Rs.25,415/- and finding that he had only 6 months of service left, made a deduction of 50% and also deducted one-third towards personal expenses and ultimately awarded a total compensation of Rs.11,37,466/-. In the appeal seeking enhancement, the High Court while upholding the 50% deduction from the deceased's salary, awarded compensation under other heads, such as, loss of consortium, estate, etc. and ultimately enhanced the total compensation amount to Rs.14,05,942/-. Being dissatisfied with the same, the claimants filed the appeal seeking enhancement.

The Hon'ble Supreme Court has observed that the cardinal principle of awarding compensation in the cases of motor accidents is to provide a "just compensation" to the victim and/or the distressed dependents of the deceased. The term "just" implies that the compensation must be fair, reasonable and equitable as per the applicable legal standards. The compensation should not be too meagre, nor should it be excessive. The sole foundation of providing monetary compensation is to make efforts to put the dependents of the deceased at the same financial position that they were in, had the accident not occurred. Both the Tribunal and the High Court had made a deduction of 50% from the salary of the deceased on account of the fact that only 6 months of service of the deceased was remaining, which is an unreasonable conclusion. Any deduction which is not related to the accident, is impermissible in law. Referring to the case in *Sarla Verma and Ors. vs. Delhi Transport Corporation and Anr.,[(2009) 6 SCC 121],* the Hon'ble Supreme Court reiterated that the multiplicand is always determined on the basis of the "annual" income of the deceased so as to ensure uniformity and consistency in the calculation of motor accident claim cases. The fact that the deceased had only six months of service left does not cast any aspersion on the fact that had the accident not occurred, the deceased would have been in service and earn commensurate to the last drawn income before the death. Therefore, the annual income of the deceased would be calculated on the basis of his monthly last drawn salary and no deduction ought to have been made from the salary of the deceased on account of duration of service left. As per the law laid down in *National Insurance Co. Ltd. vs. Pranay Sethi and others [(2017) 16 SCC 680],* an addition of 15% towards future prospects was mandated while computation of the compensation of the deceased who fall in the category of salaried permanent employees within the age bracket of 50-60 years and therefore, the addition towards future prospects should be at the rate of 15%. The Hon'ble Supreme Court ultimately enhanced the compensation to the tune of Rs.23,51,362/- and disposed of the appeal accordingly.

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SUPREME COURT – CRIMINAL CASES

Sivakumar Vs. State Represented by the Inspector of Police [Criminal Appeal No. 1807 of 2019 (2026 INSC 318)]

Date of Judgment: 06.04.2026

Section 294 (b) IPC – Mere use of the word 'bastard', by itself, is not sufficient to arouse prurient interest of a person- such words are commonly used in modern era during heated conversations – Conviction under section 294(b) IPC set aside.

The concise facts of the case is that, A1, Senthil and A2, Sivakumar were tried together along with two other persons, namely, Punitha (A3) and Jayanthi (A-4) for offences Punishable under Sections 294(b), 323, 324 and 302 read with Section 34 of Indian Penal Code arising from Crime No. 189 of 2014 registered at Police Station Thiruvidaimaruthur. The Trial Court, vide judgment and order dated 27.02.2017, acquitted A3 and A-4 and convicted A-1 and A-2 under Section 324 and 325 IPC respectively. Further, aggrieved by the acquittal of A-3 and A-4 from all the charges and acquittal of A-1 and A-2 from some of the charges including one punishable under Section 302 IPC, Criminal Appeal (MD) No. 167 of 2017 was preferred by the wife of the deceased). Whereas A-1 and A-2, aggrieved by their conviction under Sections 324 and 325 IPC respectively, preferred Criminal Appeal before the Madurai Bench of the Madras High Court. The High Court, by judgment and order dated 26.03.2019, upheld the acquittal of A-3 and A-4. However, the acquittal of A-1 and A-2 for the offence punishable under Section 294(b) IPC was reversed and they were convicted for the said offence. Further, the conviction of A1 under Section 324 of IPC was affirmed and he was also convicted under Section 304 Part II read with Section 34 IPC. Whereas the conviction of A-2 for the offence under Section 325 IPC was altered to one under Section 304 Part II IPC. Hence, the Appeal.

The Hon'ble Supreme Court on scrutiny of the Appeal had held that mere use of the word 'bastard', by itself, is not sufficient to arouse prurient interest of a person. More so, when such words are commonly used in modern era during heated conversations. The Hon'ble Supreme Court took the view that conviction of the appellants for offence punishable under Section 294(b) IPC is not sustainable and thereby was set aside. On consideration of the circumstances in which the incident unfolded and the manner in which the deceased was assaulted by A-2, besides there being no reliable evidence to show that A-1 had beaten the deceased after he fell to the ground, the charge under Section 34 IPC against A1 and A2 was set aside. However, conviction of A-1 for causing injury to PW-4 and thereby committing offence punishable under Section 324 IPC was confirmed. To convict an accused for commission of an offence punishable under Section 304 Part II IPC, it must be proved that the accused has committed culpable homicide as defined in Section 299 IPC. In the case on hand, as the offence of culpable homicide has been made out the conviction of A2 under Section 304 Part II was upheld. However, the question as to whether A-2 was liable to be convicted for culpable homicide not amounting to murder punishable under Section 304 Part I of IPC, is a question which cannot be addressed in the absence of an appeal by the State, or the victim of the crime, for altering the conviction to a graver offence and so the conviction under section 304 Part II IPC was affirmed.

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Hem Raj Vs. The State of Himachal Pradesh [Special Leave Petition (Criminal) No. 19691 of 2025 (2026 INSC 332)]

Date of Judgment: 08.04.2026

Sections 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 – Though separately punishable, the offences under Sections 25 and 29 of the NDPS Act could be parasitic and derivative – punishment and sentence should not result in double jeopardy – concurrent running of the sentence is to avoid double punishment – Section 53, IPC mentioned above also includes fine as a punishment to be part of sentence.

The concise facts of the case is that, the trial court by its judgment dated 07.11.2019 against the present appellant Hem Raj, son of Shri Devi Singh and co-accused Kulwant, son of Shri Bhagwant convicted both the accused for commission of offence punishable under Sections 20(b)(ii)(C) and 25 read with Section 29 of NDPS Act and sentenced both the convicts to undergo rigorous imprisonment for a period of 12 years each and to pay fine of Rs. 1,20,000/- each and in default of payment of the amount of fine, to undergo rigorous imprisonment for a period of one year each for the commission of offence punishable under Section 20(b)(ii)(C) of the NDPS Act. In respect of the offence punishable under Section 25 read with Section 29 of the NDPS Act, the appellant and the co-convict were sentenced to undergo rigorous imprisonment for a period of 12 years each and to pay a fine of Rs. 1,20,000/- each and in default of payment of fine, to undergo rigorous imprisonment of further period of one year each. The High Court partly allowed the appeal by modifying the sentence part of the judgment of learned Special Judge by reducing the substantive sentence of the appellant to 10 years of rigorous imprisonment from 12 years of rigorous imprisonment, separately imposed for the offences under Section 20(b) (ii)(C) and also under Sections 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985. Hence, the Appeal.

The Hon'ble Supreme Court has observed that, the offence of criminal conspiracy which is inherently covert and rarely leaves behind direct traces and whose existence could be inferred from the surrounding facts and circumstances, where any overt commission of act not always present, is seldom capable to be proved by direct evidence. Further, conspiracy is an independent offence and may be punishable even if the substantive offence committed by the conspirators does not ultimately materialise. Thus, criminal conspiracy, which is an independent offence, is so incorporated in Section 29 of the NDPS Act. Section 25 and Section 29 of the NDPS Act insofar as they provide that the punishment for the respective offences mentioned therein is same which would be for the principal offence, is an instance of legislation by reference. The legislature has referred to the punishment mentioned in the particular section to be referred to and applied for the purpose of punishment and sentence to be imposed under another section.

In addition to this, the punishment provided for the offence under Section 20 of the Act is mentioned by way of reference under Section 25 and Section 29 to be read into it in a similar way to be applied for the imposition. Though separately punishable, the offences under Sections 25 and 29 of the NDPS Act could be parasitic and derivative. The punishment and sentence should not result in double jeopardy. One of the objects of concurrent running of the sentence is to avoid double punishment. This principle would readily apply when two separate punishments are awarded, and sentences are imposed for two offences relatable to one set of facts. It would call for applying concurrent sufferance of punishment. Although the default imprisonment clause is taken out of the concept of sentence and is treated as penalty for not observing sentence of fine, the amount of fine imposed required to be paid by the convict is a sentence and has to be treated as part of sentence. Section 53, IPC mentioned above also includes fine as a punishment to be part of sentence. In that view when the sentence is directed to run concurrently, the appellant cannot be made to pay fine twice.

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Renuka Vs. The State of Maharashtra and Another [Special Leave Petition (Criminal) No. 7829 of 2023 (2026 INSC 327)]

Date of Judgment: 07.04.2026

Section 138 of the Negotiable Instruments Act 1881 – Prima Facie requirements to be seen is the issuance of cheque by the drawer in favour of the complainant – Dishonour on presentation by the payee – Issuance of statutory notice under Section 138 of the N.I. Act and filing of the complaint within the prescribed statutory period- in that event presumption under Section 139 will come into play.

The concise facts of the case is that on a complaint filed under Section 138 of the Negotiable Instruments Act, 1881, the Magistrate on being satisfied that there was prima-facie material to proceed had issued process. The Sessions Court was of the view that on the date of issuance of the cheque there was no legally enforceable debt to be satisfied by the drawer and thereby had set aside the order passed by the Magistrate in respect of issuing process. The High Court had dismissed the writ petition observing that no error of jurisdiction was found in the impugned order. Hence, the Appeal.

The Hon'ble Supreme Court has observed that at the stage of issuance of process by the learned Metropolitan Magistrate, what is prima facie required to be seen is the issuance of cheque by the drawer in favour of the complainant, its dishonour on presentation by the payee, issuance of statutory notice under Section 138 of the N.I. Act and filing of the complaint within the prescribed statutory period. If the drawer does not dispute issuance of such a cheque nor does he deny his signature on the dishonoured cheque, the statutory presumption as contemplated under Section 139 of the N.I. Act comes into play. As a result, the burden would shift on the drawer of the cheque to prove that the cheque was not issued for any legally enforceable debt or liability. This exercise has to be undertaken during the trial either by relying upon the material brought on record by the complainant or by the drawer leading evidence in rebuttal. At the stage of issuance of process, the statutory presumption under Section 139 of the N.I. Act cannot be dislodged in a summary manner merely by contending that the cheque issued was not for any legally enforceable debt or liability. It has been further observed that, when the basic ingredients of Section 138 stand duly satisfied and the statutory presumption under Section 139 gets triggered, coming to a conclusion that the cheque was not issued for a legally enforceable debt at the pre-trial stage itself without granting an opportunity to the complainant to substantiate her case by leading evidence would amount to ignoring the statutory presumption that the cheque had been issued for a legally enforceable debt or liability. As a consequence, the presumption under Section 139 of the N.I. Act gets washed away even prior to commencement of the trial. Hence, the Hon'ble Supreme Court had directed to restore the complaint to the file of the Trial Court and thereon to be decided on merits.

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Accamma Sam Jacob Vs. The State of Karnataka & Anr. Etc., [Diary No(s). 20175 of 2022 (2026 INSC 362)]

Date of Judgment: 13.04.2026

Section 156(3) Cr.P.C – While exercising jurisdiction under Section 156(3) of Cr.P.C, the Magistrate is required to merely peruse the application filed by the complainant – Examine whether the facts disclose a *prima facie* – Necessary ingredients of cognizable offences requiring investigation by police – Not expected to undertake an exhaustive evaluation of evidence nor adjudicate upon the merits of the allegations.

The present appeal has been filed impugning the common judgment passed by the High Court of Karnataka, and arise out of substantially similar complaints relating to lands distinct plot numbers in Bengaluru, and involve common accused persons, interconnected transactions and identical issues concerning the scope of interference by the High Court under Section 482 of the Code of Criminal Procedure, 1973. The concise facts of the case is that a complaint was submitted to the jurisdictional Kothanuru Police Station, which declined to entertain the same, upon which the complainant had presented a private complaint before the learned XI Additional Chief Metropolitan Magistrate, Mayo Hall, Bengaluru. Upon consideration of the averments contained therein, the ACMM, had exercised powers under Section 156(3) of Cr.P.C. and had directed that the complaint be forwarded to the jurisdictional police for registration of an FIR and investigation in accordance with law. Pursuant to the said order, the jurisdictional Police Station, i.e., Kothanuru P.S., Bengaluru City, had registered FIR in Crime No.162/2013 on 16.11.2013, against sixteen accused persons, under Sections 379, 381, 383, 415, 420,409, 463, 465, 466, 467, 468, 471, 474, 477, 107,115, 116(1), 117, 118, 120 and 120-B IPC.

Thereafter, aggrieved by the registration of FIR, the accused/respondents, namely, had approached the High Court of Karnataka by filing petitions under Section 482 Cr.P.C seeking quashing of the criminal 12 proceedings emanating from the FIR in Crime No.162 of 2013. The High Court, after hearing the parties, allowed the petitions and quashed the proceedings vide common judgment dated 28.09. 2016.

The High Court had opined that the identity of the land and the question of overlap between the rival claims constituted seriously disputed questions of fact requiring adjudication by a competent civil Court. The High Court went on to observe that even the order passed by the Magistrate under Section 156(3) Cr.P.C was unsustainable for want of proper application of mind. Consequently, the criminal proceedings emanating from the FIRs were quashed. Hence, the Appeal.

The Hon'ble Supreme Court has observed that the Magistrate had merely exercised jurisdiction under Section 156(3) of Cr.P.C and had directed to conduct investigation by the police. It cannot be said that while exercising jurisdiction under Section 156(3) of Cr.P.C, the Magistrate is required to merely peruse the application filed by the complainant and examine whether the facts disclosed therein prima facie disclose the necessary ingredients of cognizable offences requiring investigation by police. The Magistrate is not expected to undertake an exhaustive evaluation of evidence nor adjudicate upon the merits of the allegations. It has been held unequivocally that if the Magistrate arrives at a conclusion that prima facie a cognizable offence is disclosed, then he would be fully justified in directing the concerned SHO to register an FIR and proceed with investigation in accordance with law. It is well settled that the mere existence of a civil remedy does not by itself bar criminal proceedings where the allegations prima facie disclose commission of a cognizable offence. The Hon'ble Supreme Court has clearly and categorically held that, High Court while exercising its inherent jurisdiction under Section 482 of Cr.P.C, must remain circumspect in interfering with such an exercise of power and ought to intervene only where it is evident that the order lacks any legal foundation or if it suffers from any perversity or that the same may result in failure of justice. In such circumstances, the High Court, while exercising its inherent jurisdiction, should not travel beyond the allegations contained in the complaint and the material placed by the complainant by delving into the defences sought to be projected by the accused-respondents. The Hon'ble Supreme Court held that the common impugned judgment passed by the High Court was set aside and the FIRs and the proceedings arising there from stands revived and restored to the file of the concerned Police Station and Magistrate, for proceeding in accordance with law.

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Dhananjay Rathi Vs. Ruchika Rathi [Criminal Appeal Nos. 1924 of 2026 (2026 INSC 360)]

Date of Judgment: 13.04.2026

Section 12 – The Protection of Women from Domestic Violence Act, 2005 – No specific allegations regarding any sort of domestic violence – Prolonged delay in raising a substantial ground raises serious suspicion as to the credibility and authenticity of the allegations – Failure to mention any event describing any sort of violence carried out either by the husband or his mother – A criminal complaint regarding domestic violence, with mere reference to the names of the family members or the husband without any specific allegation that points towards their active involvement in commission of such an act of violence shall be nipped in the bud.

The concise facts of the case is that the marriage between the Appellant/husband and the Respondent/wife was solemnized on 19.02.2000 and due to temperamental differences, matrimonial disputes arose between the parties and they started living separately from the year 2022-23. Consequently, the Appellant-Husband had filed a divorce Petition. After both the parties had agreed to put an end to all the matrimonial disputes between them and their family members, and additionally both the parties had also agreed to refrain from instituting any case against each other or their family members. Subsequently, the Court of Principal Judge, Family Court, Saket Court House, Delhi, vide order dated 13.07.2023 had referred the matter to mediation. Pursuant to mediation, a settlement was entered into between the parties on 16.05.2024, settling all the disputes between them by way of entering into a settlement agreement. While the matter stood thus, the Respondent/wife had withdrawn her consent for the mutual divorce and in response, the Appellant/husband had filed a Contempt Petition before the Principal Judge, Family Court, South District, Saket District Court, New Delhi. Thereafter, a complaint bearing DV Complaint No. 3186 of 2025, was filed, before the Chief Metropolitan

Magistrate, Saket Courts, Delhi, by the Respondent/wife under Section 12 of the D.V. Act, against the Appellant/husband and his mother and summons were issued against them. The Appellant/husband also filed a Contempt petition before the High Court seeking initiation of contempt proceedings against the Respondent/wife for alleged breach of the Settlement Agreement. The High Court in the Quashing Petition, vide Impugned Order passed an interim order issuing notice, and agreeing to continue the D.V. proceedings while directing the Respondent/wife to deposit 89,00,000/- and retain the jewellery received by her in terms of the Settlement Agreement. Aggrieved by the said order, the Appellant has filed the present Special leave Petition and has also preferred an application seeking Decree of Divorce under Article 142(1) of the Constitution of India.

The Hon'ble Supreme Court has observed that on a perusal of the complaint filed by the Respondent/wife under the DV Act, it depicts that there are no specific allegations regarding any sort of domestic violence that could emanate from the pleadings and that a prolonged delay in raising a substantial ground that certain jewellery articles were not returned to her, raises serious suspicion as to the credibility and authenticity of the allegations. It was further observed that, the Respondent/wife has failed to mention any event describing any sort of violence carried out either by the Appellant-Husband or his mother. It is trite law that a criminal complaint regarding domestic violence, with mere reference to the names of the family members or the husband without any specific allegation that points towards their active involvement in commission of such an act of violence shall be nipped in the bud. Furthermore, as the parties have been living separately for the last couple of years, the proceedings under the DV Act appear to be premeditated and filed with a motive to sustain some sort of litigation between the parties after the respondent had resiled from the Settlement Agreement, as it was evidently for the first time in a long span of about 23 years of their sustained marriage. Hence, the Hon'ble Supreme Court has clearly and categorically held that the proceedings initiated under the DV Act were merely an afterthought, as they were filed after notice was issued in the contempt petition filed by the Appellant-Husband. In addition to this, the Hon’ble Supreme Court has held that as the sacrosanct thread tying the parties in this martial relationship has been snapped for long and since there is no possibility that the parties could be united for good in a matrimonial relationship and as it is also evident that there has been a complete and irretrievable breakdown of the matrimonial relationship between the parties besides no scope of peaceful co-existence exercising the power under Article 142(1) the Hon’ble Supreme Court had granted divorce as there had been an irretrievable breakdown of the marriage.

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HIGH COURT – CIVIL CASES

Dr. D.Murugan Vs. G.Vijayan & Another [A.S. No.820 of 2015 and M.P. No.1 of 2015] [2026 (1) TLNJ 114 (CIVIL)]

Date of Judgment: 05.01.2026

Specific Relief Act, 1963 Section 12,13 & 16 - Sale agreement - Advance paid - Suit for specific performance – allowed - Appeal - Plaintiff not placed any materials to show that he had ready cash in hands, nor produced any bank passbook – In reply notice D.1 exhibited his mind that he is not going to execute sale deed - Plaintiff ought to have filed a suit immediately - Suit filed only even after contract rescinded by D.1 & 2 - Even deposit of remaining consideration not mandatory as per Section 16 – conduct of plaintiff cannot be ignored when contract rescinded by defendants and terms of contract stipulate for immediate deposit of remaining consideration before Court – Sale Agreement for 5.51 Acres, but suit filed for 3.31 1/2 Acres - As per contract, when there is a difference between extent of land, a person seeking enforcement has to relinquish his claim for remaining part of contract - no pleading to relinquishment by plaintiff – Having made D.2 as a party and removed her later, plaintiff cannot seek specific performance – trial court granting specific performance to enforce contract for of lesser extent of land, not proper - Appeal allowed.

This appeal has been filed by the 1st defendant in the suit for specific performance. The case of the plaintiff is that the plaintiff entered into a sale agreement with the 1st defendant, who is the father of the 2nd defendant, for a sum of Rs.14,50,000/- per Acre and the total area agreed for sale is 5.15 Acres and the plaintiff paid a total sum of Rs.20,00,000/- to the 1st defendant on various dates as advance amount and the time for execution of sale deed was fixed as three months and the actual area available on ground was only 3.31 ½ Acres but the defendants were not ready to perform their part of the contract, hence the plaintiff issued legal notices to the defendants and the defendants sent a reply notice stating that the 2nd defendant has right over the suit properties and the suit sale agreement will not bind her, so the plaintiff filed the suit for specific performance of contract. Per contra, the case of the 1st defendant is that the 2nd defendant has a share in the suit property and the suit was filed for different survey numbers and the 2nd defendant had not given consent for the sale of the suit property and also that the plaintiff was not ready and willing to perform his part of the contract and that the suit agreement was rescinded by notice, hence they prayed to dismiss the suit. After the trial, the suit was decreed in favour of the plaintiff. To challenge the said decree and judgment, the 1st defendant filed the present appeal.

The Hon'ble High Court observed that as per Ex.A1, it is found that the suit property is the joint family property and in the suit sale agreement it was stated that the time fixed for payment of balance sale amount was three months and such a condition cannot be ignored and the making forfeiture clause in the agreement indicates that the time is the essence of the contract and the readiness virtually means the capacity to raise funds and willingness is the mental attitude and unless these twin conditions are satisfied and established throughout, i.e., from the date of agreement till the agreement culminates into sale, the Court will not normally enforce such contract, but in the present case, the plaintiff failed to prove that he had the financial capacity to raise the remaining funds and the reply notices clearly show that the defendants have made up their mind not to execute the sale document, under such circumstances, the plaintiff atleast should have been vigilant and ought to have filed a suit immediately and made a deposit before the Court as per the terms of the agreement, but the present suit has not been filed immediately, even after the contract was rescinded by the defendants and even though deposit of the remaining consideration is not mandatory as per Section 16 of the Specific Relief Act, the conduct of the plaintiff cannot be ignored altogether, particularly when the contract itself has been rescinded by the defendants and the terms of the contract also stipulate for immediate deposit of the remaining sale consideration before the Court and despite such terms, merely filing a suit with a delay of more than a year, clearly exhibits the fact that the plaintiff was never ready and willing to purchase the property.

The Hon'ble High Court further observed that though the sale agreement has been entered into in respect of 5.51 Acres, the suit has been filed only in respect of 3.31 ½ Acres and when there is a difference between the extent shown in the agreement and the schedule of the plaint, a person seeking enforcement of a part of the contract, has to relinquish his claim in respect of the remaining part of the contract which has not been claimed in the suit, but in the present case, the plaintiff has not relinquished his claim and the 2nd defendant as a party to the suit, later, the 2nd defendant has been removed from the array of the parties mainly on the ground that the suit for partition filed by the 2nd defendant as against her father, not only with regard to the suit properties but also the other properties, was subsequently withdrawn by her and merely because she has not insisted for partition for the present, it cannot be said that she has lost her right in the entire property and once it is admitted that the 2nd defendant also has a half share in the entire property, the 1st defendant has no title to the entire properties, then the relief of specific performance cannot be granted in respect of the share of the 2nd defendant and even assuming that the 1st defendant has agreed to sell the immovable property in respect of the 2nd defendant's share, for which he has no right or title, when a person intends to enforce such contract, he should have made the 2nd defendant also a party to the suit in order to compel the 1st defendant to procure the concurrence of the 2nd defendant as per Section 13 of the Specific Relief Act, but the plaintiff failed to do so and during the pendency of appeal, the plaintiff has received back the entire amount of Rs.20,00,000/- along with interest at the rate of 7.5% per annum without any demur or protest, so, this conduct of the plaintiff also indicates that he is not intended to purchase the property.

In the result, this Appeal is allowed and the decree and judgment of the trial Court are set aside.

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Dr. Narendran S/o. Ganesaraja Vs. Dr. Narmada W/o. Dr.Narendran [C.M.A. No.130 of 2020] [2026 (1) TNLJ 125 (CIVIL)]

Date of Judgment: 09.01.2026

Hindu Marriage Act, 1955, Section 13(1)(i-a) - Petition by Appellant for acts of cruelty by wife alleging relationships with other persons, hysterical, over possessive and abusive and refusing to take medicines prescribed by doctor - Dismissed - Appeal - irretrievable break down of marriage cannot be a ground to be stated by Court for dissolution of marriage, since Hindu Marriage Act does not provide for such ground - Though appellant named three separate individuals, not taken steps to summon them to tender evidence - Merely because respondent not been represented before Court would not take away to examine evidence in entirety - dissolution on ground of cruelty not substantiated - Appeal dismissed.

This Civil Miscellaneous Appeal was filed by the Appellant / Petitioner against the order of dismissal of the petition filed u/s. 13(1)(i-a) of Hindu Marriage Act. The case of the petitioner is that he married the respondent on 03.09.2002 and out of the wedlock, a boy was born on 12.05.2008 and the respondent had an illegal relationship with various individuals and the respondent was over possessive and exhibited symptoms of hysteria and mental depression and she was taken to a psychiatrist, who prescribed some medicines, but the respondent did not heed to the advise of the doctor and the respondent abused the petitioner in the front of other PG doctors and the respondent did not took care of the petitioner and his son and the said marriage was irretrievably broken down and the acts of the respondent amounted to cruelty, hence the petitioner filed the petition for dissolution of marriage. Per contra, the respondent filed a counter, in which she stated that the alleged relationship of the respondent with the third party individuals is false and the petitioner tried to commence relationship with the hospital nurse and other staff which was objected by the respondent and the respondent was not mentally affected and the petitioner had deliberately imputed the character of the respondent and the petitioner had rude behaviour with the respondent and her child and he neglected her and also the child without providing any maintenance, hence she prayed to dismiss the petition. After the trial, the said petition was dismissed by the Trial Court. To challenging the said order, the present Civil Miscellaneous Petition was filed by the petitioner. During the hearing of the appeal, the respondent's counsel was not present.

The Hon'ble High Court observed that irretrievable break down of marriage alone cannot be a ground for dissolution of the marriage because the Hindu Marriage Act does not provide such a ground and the petitioner had not filed a petition seeking dissolution of marriage on the ground of illegal relationship and though the petitioner had named three separate individuals, he had not taken steps to summon them to tender evidence, so the allegation stated by the petitioner that the respondent had an illegal relationship is rejected and with regard to the allegation of over possessiveness and abusive, the said act were only scratches in the marital relationship and the petitioner had made mountain out of a molehill of every incident and the Court has the responsibility to examine the evidence in entirety even though the respondent has not been represented before this Court.

In the result, the appeal was dismissed.

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R.V.Venkateshan Vs. Sanjay @ Sanjay Sait & Others [CRP No.5650/2025 AND CMP. No.28269/2025] [2026 (1) TLNJ 130 (CIVIL)]

Date of Judgment: 07.01.2026

Income Tax Act, 1961, Section 269 ST - Suit for recovery of money based on promissory note - R.1 & 2 filed an application seeking to reveal Petitioner's PAN number and a direction to forward copy of plaint and other documents to Income Tax Authorities – Allowed – Revision - Whenever suit is filed with a claim of more than Rs.2,00,000/- and amount paid in cash, Court shall intimate same to Income Tax Department - Plaintiff said to have paid Rs.80,00,000/- in cash - Though amount paid prior to coming into force of Section 269, such a huge transaction by plaintiff should have been reflected in his income tax return - even in absence of said provisions, this kind of heavy cash transaction requires consideration by the Income Tax Department - Petitioner cannot be compelled to reveal his PAN number to respondents - direction of trial Court set aside – direction issued to forward copy of plaint and documents to Income Tax Authority confirmed - C.R.P partly allowed.

This Civil Revision Petition is filed by the petitioner / plaintiff challenging the order passed by the Trial Court. The case of the petitioner is that he filed the suit for recovery of money based on the promissory note and the respondents filed an application in the said suit seeking direction to the petitioner to reveal his PAN number and also seeking a direction to forward the copy of the plaint and other documents to the jurisdictional Income Tax Authorities for the purpose of considering the violation of Section 269 ST of Income Tax Act and the said application was allowed by the Trial Court, hence, the petitioner filed the present revision petition.

After considering the judgment of the Hon'ble Supreme Court in The Correspondent, RBANMS Educational Institution Vs. B.Gunashekar (2025 INSC 490), the Hon'ble

High Court held that whenever suit is filed with a claim of more than Rs.2,00,000/- and such amount was said to be paid in cash, the Court shall intimate the same to the jurisdictional Income Tax Department to verify the transaction and violation of Section 269 ST of Income Tax Act and in the present case, the plaintiff is said to have paid Rs.80,00,000/- in cash to the defendants and though such a suit transaction had taken place prior to the introduction of Section 269 ST of the Income Tax Act, even in the absence of said provisions, this kind of heavy cash transaction requires consideration by the Income Tax Department.

The Hon'ble High Court further held that the petitioner cannot be compelled to reveal his PAN number to the respondents. From the above discussions, this Civil Revision Petition is partly allowed by setting aside the order of directing the petitioner to reveal his PAN number to the respondents and confirmed in respect of the other direction issued by the Trial Court directing the Ministerial Officer to forward the copy of the plaint along with documents to the jurisdictional Income Tax Authority.

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Murugan Asari Vs. Chinnammal & Others [S.A. No.16/2014 and M.P. Nos.1 & 2/2014 and C.M.P. Nos.5267 & 6494/2020] [2026 (1) L.W. 800]

Date of Judgment: 12.02.2026

Hindu Law/Mitakshara Law, ancestral property, partition, right of male

Hindu Succession Act (1956), section 8, succession, right of male, scope

Hindu Succession Act (2005), section 6 proviso, section 8, right of male

C.P.C., Order 1 rule 9, misjoinder of party, order 41 rule 27, right of daughter

Partition/Coparcenary, ancestral, separate property, difference of

Settlement deed/Coparcenary property, undivided share, whether can be settled

plaintiff, daughter of the first defendant, filed the suit for partition contending that the suit schedule properties are ancestral joint family properties - stand of the first defendant is that the suit properties are his separate and self- acquired properties.

plea that property is self-acquired and property is acquired by inheritance from one's father are legally distinct pleas and are mutually destructive and cannot co-exist - Inconsistency between the pleadings

property devolved upon first defendant in 1954 and became ancestral in his hands vis-a-vis his children - coparcenary subsisted on the date of commencement of the Hindu Succession (Amendment) Act, 2005 – Plaintiff-Daughter acquired coparcenary rights by operation of Section 6, as amended.

Karta executed a settlement deed conveying the entire extent of the 2nd item of property exclusively in favour of one coparcener, without the express or implied consent of the other coparcener.

A settlement or gift of coparcenary property by the karta in favour of one coparcener, without the consent of the others, is void ab initio and does not bind the non-consenting coparceners and can be safely ignored in a suit for partition.

Proviso to Section 6 protects only those alienations which were valid in law at the time when they were effected.

Deceased son of first defendant died without leaving any female heir – His undivided interest in the coparcenary did not devolve by succession under the Act so as to enable the first defendant to claim it as a Class II heir – such interest merged with the coparcenary by survivorship, to be enjoyed by the surviving coparceners in accordance with Mitakshara Law.

Fifth defendant sister of first defendant is not a sharer in the suit properties – Nevertheless is a proper party to the suit – It is also relevant to note that the 5th defendant was set ex parte before the trial court and arraying the 5th defendant is not illegal.

Both items of the suit properties are ancestral/coparcenary properties – plaintiff, being a coparcener on and after the advent of the (Amendment) Act, 2005, is entitled to claim her share in the suit properties.

This second appeal has been filed by the appellant / 1st defendant to set aside the decree and judgment of the First Appellate Court. The case of the respondent / plaintiff is that the plaintiff, defendants 2 to 4 and 6 are the daughters and sons of the 1st defendant and the suit properties are the ancestral properties of the plaintiff and the 1st defendant executed a settlement deed in favour of the 2nd defendant with regard to Item No.2 of the suit properties without any legal right, hence she filed the suit for partition and separate possession. Per contra, the case of the 1st defendant is that Item No.1 of the suit properties is his self-acquired property and he sold the said property for discharge of debts and the suit is bad for partial partition and the plaintiff had been given sufficient seervarisai at the time of her marriage, hence, he prayed to dismiss the suit. The other defendants remained ex-parte. After the trial, the preliminary decree for partition of the suit property was passed by the Trial Court and the same was confirmed by the First Appellate Court. To challenge the said decree and judgment, the present second appeal was filed by the 1st defendant.

The 1st defendant filed the petitions to receive additional documents, such as sale deeds and settlement deed. The Hon'ble High Court held that the 1st defendant has failed to establish that he exercised due diligence in producing the sought documents earlier because the reason stated by the 1st defendant that the documents were recently discovered from an box kept at home is not sufficient and the 1st defendant pleaded in his written statement that Item No.1 of the suit property is his self-acquired property, but in his affidavit which was filed along with the petitions, he stated that the property was acquired by inheritance from his father and treated such property as separate property, such pleas are mutually destructive and cannot co-exit and if these petitions are allowed, then it amounts to introducing of new case by the 1st defendant at the appellate stage, which is prohibited under Order 41 Rule 27 of C.P.C., hence these petitions are dismissed.

The Hon'ble High Court held that Section 8 of the Hindu Succession Act applies only where the death of a male Hindu occurs after 17.06.1956 and since the succession in the present case opened in 1954, the devolution is governed by the Mitakshara law as it stood prior to codification and under the pre-1956 Mitakshara law, when a Hindu male died intestate leaving self-acquired property and was survived by a son, such property devolved upon the son by survivorship and in the hands of the son it assumed the character of ancestral property vis-a-vis his issue and upon the birth of a son, a coparcenary came into existence and the Hindu Succession Act is not retrospective and does not divest the vested rights and in the present case, the property devolved upon the 1st defendant in 1954 and became ancestral in his hands vis-a-vis his children and a coparcenary came into existence upon the birth of his son and the coparcenary subsisted on the date of commencement of the Hindu

Succession (Amendment) Act, 2005, therefore, the plaintiff-daughter acquired coparcenary rights by operation of Section 6 and the absence of three generations and denial of birth right cannot be mechanically applied to a case of pre-1956 devolution by survivorship, so, Section 8 of Hindu Succession Act is not applicable to the present case.

The Hon'ble High Court observed that under Mitakshara law, the Karta is only the manager and representative of the joint family and does not possess an unfettered power of alienation over coparcenary property and his power is strictly limited to alienations made for legal necessity, benefit of estate, or indispensable duties and even within these limited spheres, the power does not extend to making gratuitous transfers of joint family property and a gift or settlement lies wholly outside the scope of the Karta's authority, except in narrowly recognized exceptions, such as reasonable gifts for pious or charitable purposes or gifts to a daughter at the time of marriage, so, a settlement or gift of coparcenary property by the Karta in favour of one coparcener, without the consent of the others, is void ab initio and does not bind the non-consenting coparceners and the statutory protection under the proviso to Section 6 of Hindu Succession Act, 2005, cannot be extended to invalid or void transactions, even if they were executed prior to 20.12.2004 and where an alienation was beyond the authority of the person effecting it and was void in law on the date of its execution, the legal position remains unchanged, notwithstanding the amendment, so, the settlement deed executed by the 1st defendant is void and the same will not affect the right of the plaintiff.

The Hon'ble High Court held that in the present case, the 1st item, though purchased subsequently, was acquired by sale of ancestral property and therefore retained its ancestral character and u/s. 6 of the Hindu Succession Act, 1956 (prior to the 2005 amendment), when a male coparcener dies leaving behind a surviving female heir specified in Class I of the Schedule, a notional partition is deemed to have taken place, and the share of the deceased coparcener devolves by succession upon such Class I heirs, however, where a male coparcener dies without leaving any surviving female heir, his interest in the coparcenary devolves by survivorship upon the surviving coparceners, and not by succession under the Hindu Succession Act and in the present case, the deceased son of the 1st defendant, died without leaving any female heir, therefore, his undivided interest in the coparcenary did not devolve by succession under the Hindu Succession Act so as to enable the first defendant to claim it as a Class II heir and the 5th defendant, being the sister of the 1st defendant, is a non-coparcener and does not acquire any proprietary interest in the coparcenary property because the succession opened prior to the Hindu Succession Act 1956 and she was only entitled to maintenance and marriage expenses out of the joint family properties, and not to a share therein under the Mitakshara law and as per Order I Rule 9 C.P.C., no suit shall be defeated by reason of mis-joinder or non-joinder of parties, except in the case of non-joinder of a necessary party and the arraying of the 5th defendant in the suit, even if assumed to be irregular, is not illegal or fatal to the proceedings and the sharers in the suit properties are the plaintiff and defendants 1 to 4 and 6 alone, and not the 5th defendant and the 5th defendant is excluded from the computation, the share allotted by the courts below to the plaintiff requires modification and the plaintiff's entitlement is recalculated and enhanced from 1/7 to 1/6 share in the suit properties. With the above observations, this second appeal and the connected petitions are dismissed.

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Dr.Lakshmi Murali Vs. M.Rajan and Another [S.A. Nos.107 & 610/2019 and C.M.P. Nos.2353/2019] [2026 (1) L.W. 840]

Date of Judgment: 13.02.2026

Succession Act, Section 63, Will, Proof of, suspicious circumstances, challenge by stranger, bona fide purchaser, when permissible

Evidence Act, Section 65, Secondary Evidence of Will, whether admissible, section 68, attesting witness, evidence

Limitation Act, Article 59

Claim of the plaintiff that, in view of the Will executed by his grandmother in his favour, his father has no right in the suit property to execute a sale deed in favour of the 2nd defendant.

Original Will was never filed before the trial court – A document upon which a title is based is required to be proved by primary evidence, and the secondary evidence is only an exception – plaintiff failed to account for the existence of the primary evidence – In the absence of any evidence such as misplacement or lost or not otherwise available, the first appellate court erred in accepting the Will produced by the plaintiff.

Contention of the plaintiff is that the came to know about the existence of the Will through a stranger after a long period, itself is a suspicious circumstances – Evidence of attesting witness is also not satisfactory – He failed to demonstrate that he had signed the Will as per the direction of the testator, fulfilling section 63 – Generally a stranger to a family has no standing to challenge a Will – However, a purchaser who is not a member of the family can question the genuineness of the Will when they have a direct legal interest in the property or where the Will affects their rights over the property they purchased.

Plaintiff had knowledge about the transactions between his father and the defendants in 2006 – Right to sue accrued – Suit filed only in 2010 – Suit is barred.

These second appeals have been filed by the appellants / defendants 1 and 2. The case of the plaintiff is that the suit property belonged to the plaintiff's grandmother and the suit property was let out for rent by the plaintiff's grandmother and she executed the Registered Will Deed in favour of the plaintiff and after the death of the plaintiff's grandmother, the plaintiff was collecting the rent from the tenants in the suit property and the plaintiff came to know that his father sold the suit property to the 2nd defendant, who subsequently sold the same to the 1st defendant and the defendants evicted the tenants from the suit property, so, the plaintiff issued the legal notices to the defendants for cancelling the sale deeds and to handover the possession to the plaintiff, for which the defendants have sent a reply notice to the plaintiff, hence the plaintiff filed the suit for declaration, recovery of possession and for permanent injunction. Per contra, the defendants stated that after the death of plaintiff's grandmother, the plaintiff's father executed a registered sale deed in favour of the 2nd defendant for a valuable consideration to meet out the medical expenses and debt incurred by the plaintiff's grandmother and the 2nd defendant sold the suit property to the 1st defendant, so the 1st defendant is the bonafide purchaser and the plaintiff was never in possession of the suit property and the alleged Will executed by the plaintiff's grandmother is a fabricated document and the original Will was not produced by the plaintiff, hence they prayed to dismiss the suit. After the trial, the suit was dismissed by the Trial Court and the plaintiff preferred an appeal before the First Appellate Court and the same was allowed by that Court. To challenge the said decree and judgment, the defendants filed the present separate second appeals.

The Hon'ble High Court finds that the original Will was not filed before the Trial Court and the plaint did not clarify whether the alleged Will was lost or not and a document upon which a title is based is required to be proved by primary evidence, and the secondary evidence is only an exception and when original documents are not produced without a plausible reason and factual foundation for laying secondary evidence not established, it is not permissible for the Court to allow a party to adduce secondary evidence and in the present case, in the absence of any such evidence such as misplacement or lost or not otherwise available, the first Appellate Court erred in accepting the Will produced by the plaintiff. Further, it may be true that Will (Ex.A2) was a registered one and a certified copy of the Will is admissible and the certificate of a Registering Officer on the Will is a sufficient proof of execution of the Will and its contents, but the same by itself would not mean that the statutory requirements by proving the Will need not be complied with and in terms of Section 63 (c) of Succession Act and Section 68 of Indian Evidence Act, the propounder of Will must prove its execution by examining one or more attesting witnesses and propounder of Will must prove that the Will was signed by the testator in a sound and disposing state of mind duly understanding the nature and effect of disposition and she put her signature on the document on her own free will and the evidence of attestor must confirm that the testator signed the Will, was in sound state of mind, and that the witness has signed in the testator's presence and simply calling a witness is not enough if the Will is surrounded by suspicious circumstances but in the present case, the long silence of the plaintiff about the Will creates suspicious circumstances, and if the Will was executed by the grandmother of the plaintiff then she would have informed the same at least to her close relatives and the evidence of the attesting witness (P.W.2) is also not satisfactory because he failed to demonstrate that he had signed the Will as per the direction of the testator, fulfilling the requirements contemplated u/s. 63 of Succession Act, so, it cannot be construed that the Will was proved in accordance with law and generally, a stranger to a family has no standing to challenge a Will, however, a purchaser who is not a member of the family can question the genuineness of the Will when they have a direct legal interest in the property or where the Will affects their rights over the property they purchased and the First Appellate Court failed to note that the entry of Will is made only in Book III of Register maintained in the Sub Registrar's Office which would never be reflected in the Encumbrance Certificate.

The Hon'ble High Court held that the plaintiff had not given the details of the tenants in the suit property and he failed to establish his possession in the suit property during the relevant period and the plaintiff had knowledge about the eviction of the tenants from the suit property in the year 2006 itself, but caused the legal notice only in the year 2008 and filed the suit in the year 2010, for which no explanation is given by the plaintiff and the plaintiff has not taken any steps to question the same prior to the suit, so, it could be inferred that the plaintiff had knowledge about the transactions between his father and the defendants in the year 2006 itself, therefore, the right to sue had accrued to the plaintiff in the year 2006 itself, but, the suit was filed only in the year 2010, so the suit is barred by limitation and the plaintiff in a suit for declaration of title and possession could succeed only on the strength of his own title by adducing sufficient evidence to discharge his onus, irrespective of the question whether the defendants have proved their case or not. From the above, the Hon'ble High Court held that the plaintiff failed to prove his case.

In the result, these second appeals are allowed.

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HIGH COURT – CRIMINAL CASES

Tmt. Rani Vs. The State Rep. by Inspector of Police, Pennadam Police Station, Cuddalore District & Others [Crl. A. No.440/2019] [2026 (1) L.W.(Crl.) 429]

Date of Judgment: 25.02.2026

I.P.C., Sections 147, 148, 294(b), 302, 307

Criminal trial/medical evidence, eye witness, difference, statement of deceased to police, whether can be relied.

Previous enmity between two families wife of deceased is an eyewitness and an injured witness - she attributed specific overt acts to each accused - when she intervened she was attacked and sustained injuries on her head and hands - She explained that occurrence took place at late night hours and that villagers were afraid to intervene Statement given by deceased in the hospital cannot be ignored – Even if the statement is not treated as a formal dying declaration, it is still an important statement made by an injured person while he was undergoing treatment - It forms the basis of registration of the FIR.

Entries made in the accident registers during the course of treatment clearly show that both the deceased and pw1 stated that they were attacked by known persons with weapons, thereby lending support to the prosecution case.

Discrepancy between ocular evidence and medical evidence - Testimony of eyewitnesses ordinarily carries greater weight unless it is wholly inconsistent with the medical evidence – Entries made by the doctor in the medical records cannot be treated as substantive evidence and are mainly relevant to indicate the nature of the injuries, the possible weapon used and the time of occurrence -Testimony of a hostile witness can be relied upon to the extent it supports the prosecution.

This Criminal Appeal was filed by the defacto complainant, who is the wife of the deceased. The case of the prosecution is that the deceased and accused had longstanding enmity and the deceased along with his family were charged for the murder of the 1st accused's father and due to the above said vengeance, on the date of occurrence, when the deceased and his wife were lying in front of their house, the accused 1 to 6 formed an unlawful assembly with the intention of murdering the deceased and the 1st accused abused the deceased and the accused 1 and 2 attacked the deceased by using knives and the 3rd accused attacked the deceased by using the Iron Pipe and the accused 4 to 6 caught hold of the deceased and restrained him and facilitated the assault and when the appellant attempted to prevent the said attack, the accused 4 to 6 assaulted her and A1 and A2 attacked the appellant by using knives and the 3rd accused attacked her with an Iron Pipe and the deceased and her wife were admitted in the hospital by their son through ambulance and due to the said injury, deceased died and the appellant had injuries in her body, so the accused 1 to 6 committed the offences u/s. 147, 148, 294(b), 307 and 302 of IPC. After the trial, the accused were acquitted by the Trial Court. To challenge the said judgment, the wife of the deceased (P.W.1) has filed the present appeal.

The Hon'ble High Court finds that there was a longstanding land dispute between the deceased and the accused, and in an earlier quarrel, the father of the 1st accused died, for which a murder case was registered against the members of the deceased family. From the above, the prosecution proved the motive for the alleged murder in the present case through the evidence of P.W.1, P.W.4 and P.W.5. The Hon'ble High Court further finds that P.W.1 is both an eyewitness and an injured witness and her testimony is clear, consistent and natural and being an injured witness, her presence at the scene cannot be doubted and in her cross-examination, minor discrepancies relating to exact time do not affect the core of her evidence and the main narrative that the accused came armed, attacked the deceased and injured her has remained consistent throughout and P.W.3, an independent witness, residing in the same village, has corroborated her version and though suggestions were made regarding political rivalry and previous cases, no material has been elicited in the cross-examination to discredit his (P.W.3) core testimony and his presence in the village at that hour appears natural.

The Hon'ble High Court observed that though the deceased could not be examined during trial due to his death, the statement given by him in the hospital cannot be ignored and even if the statement is not treated as a formal dying declaration, it is still an important statement made by an injured person while he was undergoing treatment and the case is not based solely on such statement or complaint and such statement is also corroborated by P.W.1 and P.W.3 and the entries made in the Accident Registers during the course of treatment clearly show that both the deceased and P.W.1 stated that they were attacked by known persons with weapons, thereby lending support to the prosecution case and the doctor (P.W.11) has clearly stated in the Post-mortem Certificate (Ex.P-19) that the deceased died due to head injury and blood loss, so the medical evidence clearly shows that the deceased sustained multiple injuries, which resulted in death and it is well settled law that where there is a discrepancy between ocular evidence and medical evidence, the testimony of eye witnesses ordinarily carries greater weight unless it is wholly inconsistent with the medical evidence and the medical evidence is primarily intended to lend assurance to the prosecution case and cannot by itself discredit the testimony of eyewitnesses unless it clearly demonstrates that the occurrence could not have taken place in the manner spoken to by them and the entries made by the doctor in the medical records cannot be treated as substantive evidence and are mainly relevant to indicate the nature of the injuries, the possible weapon used, and the time of occurrence and the inconsistencies stated by the Trial Court in the Accident Registers and in the Post-mortem Certificate cannot outweigh the otherwise reliable eye witness evidence on record and the medical evidence of P.W.10 and P.W.11 also supports the prosecution's case.

The Hon'ble High Court further observed that though P.W.2 and P.W.6 turned partially hostile, they admitted their signatures in the mahazars and it is settled law that the testimony of a hostile witness can be relied upon to the extent it supports the prosecution and P.W.7 has stated that the accused were interrogated in his presence and that based on the information given by them, two knives and an iron rod were recovered under a mahazar, in which he signed as a witness and P.W.8 and P.W.9 have also identified their signatures in the confession statements and the related documents and though some of these witnesses do not recollect all the procedural details and partly resiled from certain aspects of the prosecution case, they have not denied their signatures in the relevant documents and their evidence, taken as a whole, indicates that the recovery proceedings were conducted in their presence, so the recovery of the knives and iron rod from the place pointed out by the accused stands proved and P.W.12 (the Scientific Officer) has reported absence of alcohol or poison in the viscera and P.W.13 (Assistant Director of Forensic Science Department) has detected bloodstains on the iron rod, knife and other seized materials and though in some instances the blood was decomposed, the presence of blood on the weapons corroborate their use in the assault and as for the minor contradictions in the evidence, they cannot be taken as a valid reason to doubt the prosecution case, especially since the incident happened in 2013 and the witnesses were examined only in 2018 and since P.W.4 and P.W.5 were not present at the exact time of occurrence and came only after receiving information, sometime would naturally have been taken to shift the injured and the incident occurred late at night in a village and the injured were moved in the early morning hours and the medical records show that the injuries were fresh and consistent with the occurrence, so the minor variations or delay cannot be taken as a ground to reject the otherwise clear and consistent evidence of the prosecution. From the above, the Hon'ble High Court held that the prosecution has proved their case beyond reasonable doubt and the accused were convicted for the offences u/s. 148, 294(b), 302 and 307 r/w 149 of IPC and sentences were passed for the offences u/s. 302, 307 r/w. 149 of IPC and since the accused have been awarded the sentence of life imprisonment for the major offence, the Hon'ble High Court has not passed separate sentence for the offences u/s. 148 and 294(b) of the IPC.

In the result, this Criminal Appeal is allowed.

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Murugesh Vs. The State rep. by the Inspector of Police, Arumanai Police Station, Kanyakumari District [Crl. A.(MD) No.413 of 2023] [2026 (1) MWN (Cr.) 351 (DB)]

Date of Judgment: 03.03.2026

Indian Penal Code, 1860, Sections 300, Exception 1, 304 II & 302 – "Culpable homicide not amounting to murder" – Strained relationship between accused and his father/deceased – Quarrel between father and son led to attacking deceased with a stone which resulted in his death – Evidence of PW2 & PW3, neighbours supported by Medical evidence – PWs.2 & 3 established regular quarrel between father and son and on date of occurrence same resulted in assaulting deceased with stone – Heated quarrel resulted in grave and sudden provocation – Attacking with stone lying nearby shows no prior intention or premeditation on part of accused to murder deceased – Multiple blows with stone on head and other parts of bodies would show intention to cause such bodily injuries as is likely to cause death – Would fall within Exception 1 to Section 300 punishable under Section 304 I – Conviction under Section 302 modified to one under Section 304 I – Sentence reduced to RI for 7 years.

This appeal has been filed by the sole accused against the judgment of conviction. The case of the prosecution is that the defacto complainant is the brother of the accused and the accused has a strained relationship with his father and on the date of occurrence, there was a quarrel between the accused and his father with regard to the demand of cash by the accused and the accused attacked his father with a stone on his head and all over his body, as a result, his father died, hence the accused has committed offences u/s. 294(b), 506(II) and 302 of IPC. After the trial, the accused was convicted and sentenced for the offences u/s. 302 of IPC. Challenging the said judgment, the accused filed the present appeal.

The Hon'ble High Court finds that P.W.2 and P.W.3 are the eye witnesses to the offences and their presence cannot be doubted as they are neighbours and they are not interested witnesses and they deposed about the quarrel between the accused and deceased and the overt act of the accused and such evidence have not been discredited during their cross examination and the injuries stated in the Postmortem Certificate (Ex.P7) are perfectly in line with the evidence of P.W.2 and P.W.3 and as per Ex.P.7, it is found that the deceased died due to multiple injuries and the FIR reached the Court within the reasonable time. From the above, the Hon'ble High Court held that the prosecution has proved their case.

The Hon'ble High Court observed that if the death is caused and the case is covered by any of the five exceptions of Section 300 of IPC, then such culpable homicide does not amount to murder and Section 304 of IPC does not create an offence, but provides for punishment for culpable homicide not amounting to murder and Section 304 of IPC draws a distinction for the penalty in cases covered by one of the five exceptions when there was intention to kill a person and where there was only knowledge that death would likely be caused and Section 304(I) of IPC will apply in a case where the prosecution proves that the accused had the intention to cause such bodily injury as is likely to cause death, where it was done under grave and sudden provocation and Section 304(II) of IPC will be attracted when the accused had no intention to cause such bodily injury as was likely to cause death but had the knowledge that the injury would likely cause death and in the present case, the accused attacked the deceased with a stone lying nearby, which shows that there was no prior intention on the part of the accused person to murder the deceased, that is, there was no premeditation and the same can be brought within Exception I of Section 300 of IPC, but there was a heated quarrel between the accused and the deceased and the same resulted in provocation, which was grave and sudden, which resulted in the accused person taking a nearby stone and hitting his father on his head and other parts of the body, which resulted in his death and it was not a case of single blow and the accused person had given multiple blows to the deceased with the stone, so the accused had the intention to cause such bodily injury as is likely to cause death. From the above, the Hon'ble High Court holds that the facts of the present case can be brought under exception I of Section 300 of IPC and hence, is punishable u/s. 304(I) of IPC and not u/s. 302 of IPC.

In the result, this second appeal is partly allowed.

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R.Raman Vs. R.Balaji Ram [Crl. O.P.(MD) No.4045/2026] [2026 (1) M.W.N.(Cr.) 420]

Date of Judgment: 24.02.2026

Code of Criminal Procedure, 1973, Sections 70, 72 & 482 – Non-bailable warrant – Cancellation / recall of – Maintainability of petition invoking inherent jurisdiction u/s. 482 – Principles governing recall of non-bailable warrant as laid down in P.A. Saleem (DB) – Non-bailable warrant issued u/s. 70 remains in force until executed or cancelled by Court issuing same – Remedy of accused is to approach very same Court with petition for recall – Refusal to cancel warrant by such Court, a final order amenable to revision u/s. 397 or 401, Cr.P.C. – Inherent jurisdiction u/s. 482 cannot be invoked for recall of warrant – Inherent power not a substitute for statutory remedies nor can be employed to short-cut procedural hierarchy envisaged by law – Accused, who voluntarily appears before Trial Court and seeks recall, not to be mechanically remanded – Recall application must be considered and disposed of forthwith without delay – Speedy disposal, a constitutional mandate flowing from Article 21.

This petition has been filed by the petitioner / accused to recall the non-bailable warrant issued against him. The case of the petitioner is that the respondent filed the complaint u/s. 138 r/w 142 of NI Act before the Magistrate Court and the petitioner was convicted by the said Court and the petitioner filed an appeal before the District Court and the non-bailable warrant was issued against the petitioner for his non-appearance, hence the petitioner filed the present petition to recall the said warrant.

After considering the order passed in P.A.Saleem Vs. State of Madras (1994 SCC Online Mad 860), the Hon'ble High Court observed that the Court has categorically held that a warrant issued u/s. 70 of Cr.P.C. remains in force until it is executed or cancelled by the Court which issued it, and that the proper and primary remedy of an aggrieved accused is to approach that very Court with an application for cancellation or recall and a refusal to cancel a warrant constitutes a final order amenable to revision u/s. 397 or 401 of Cr.P.C., and that the inherent jurisdiction u/s. 482 of Cr.P.C. cannot be invoked for a simpliciter recall of a warrant and the Trial Courts must act with promptitude and sensitivity and an accused who voluntarily appears and seeks recall of a warrant is not to be mechanically remanded; rather, the application must be considered forthwith and orders passed without delay and this approach strikes a constitutionally permissible balance between individual liberty and the collective interest in the expeditious administration of criminal justice and the speedy disposal of criminal cases is not merely an administrative objective but a constitutional mandate flowing from Article 21; endless interlocutory interventions, particularly in matters relating to warrants, have the potential to derail trials, frustrate victims, and erode public confidence in the justice delivery system. Hence, in the present case, the petitioner has to file a recall petition before the concerned Court and the statutory framework expressly empowers those Courts to consider such applications and to pass appropriate orders.

In the result, this petition is disposed of with conditions.

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Manikandan Vs. State rep. by the Inspector of Police, Velur Police Station, Namakkal District [Crl. A. No.131 of 2022] [2026 (1) MWN (Cr.) 401]

Date of Judgment: 04.03.2026

Protection of Children From Sexual Offences Act, 2012 (POCSO Act), Section 5(1) r/w 5(j)(ii) – Repeated penetrative sexual assault on victim girl aged 16 years, which resulted in her pregnancy – Doctor/PW12 examined victim/PW2 and issued Medical Report/Ex.P6 – Medical evidence clearly established that victim was subjected to repeated sexual assault due to which she became pregnant – Growth of foetus diagnosed as 31 weeks and 6 days – Offence u/s. 5(1) r/w 5(j)(ii) attracted – Mere resiling of statement and evidence by PW2 in cross-examination after 3 years, not sufficient to hold otherwise – Trial Court rightly ignored cross - examination done after 3 years – Contention as to non-conduct of DNA Test, rejected in circumstances – Foundational facts having been established by prosecution, presumption u/s. 29 rightly raised – No material to dislodge presumption u/s. 29 – No infirmity/perversity in finding of conviction warranting interference – Imposition of enhanced sentence of 20 years relying upon 2019 amendment – Sustainability, when offence committed in 2014 – Prior to amendment, Section 6 prescribed minimum sentence of 10 years extendable to Life Imprisonment – Sentence to be imposed as per law in force at time of commission of offence – Enhanced sentence barred by Article 20(1), Constitution – Sentence reduced from 20 years to 10 years.

This appeal has been filed by the appellant / 1st accused against the judgment of conviction. The case of the prosecution is that the 1st accused belongs to MBC and the victim (P.W.2) belongs to SC Community and the 1st accused had forcible sexual intercourse with the victim on several occasions on promising her to marry, due to the said relationship, the victim became pregnant and the 1st accused abused the victim and her parents by mentioning their caste name and threatened for life and chased away, hence the 1st accused committed the offence u/s. 5(1) and 5(j)(ii) of POCSO Act and Section 506(i) of IPC and Section 3(2)(v) of SC/ST(POA) Act. After the trial, the 1st accused was convicted u/s. 5(1) r/w 5(j)(ii) of POCSO Act and acquitted him from the charges of Section 506(i) of IPC and Section 3(2)(v) of SC/ST(POA) Act. Aggrieved by the said judgment, the 1st accused filed the present appeal.

The Hon'ble High Court finds that the prosecution has proved the Communities of the victim and the 1st accused by producing their Community Certificates and the victim was aged about 16 years at the time of occurrence, which was proved through the evidence of Headmistress of the School (P.W.9) and the School Certificate (Ex.P4) and the said facts are not disputed and when P.W.2's testimony before the Court is clear and cogent, which is almost the same version as per the statement recorded u/s. 164 of Cr.P.C. and there has been no exaggeration or any inconsistency, the resiling of the statement in the cross-examination that has been recorded after more than three years, will not in any way affect the evidence categorically let in by the victim in chief examination, establishing the charge against the accused and when it has been established that the victim (P.W.2) has been subjected to repeated sexual assault in the hands of the 1st accused and the victim (P.W.2) was also found pregnant nearly eight months, there was no occasion required on the part of the prosecution, to go for DNA test to prove the charges against the 1st accused, so the non-taking of DNA test will not affect the case of the prosecution, so the prosecution has proved the foundational facts in this case and there is a presumption in favour of the prosecution u/s. 29 of POCSO Act and the 1st accused has not produced any evidence to rebut the said presumption as the evidence of D.W.1 and D.W.2 were related to non-visiting of the 1st accused's house by P.W.1 to P.W.3 and the evidence of the Doctor (P.W.13) and the medical opinion (Ex.P8) suggest that the 1st accused was fit and potential to involve in the sexual relationship. From the above, the Hon'ble High Court held that in the present case, the prosecution proved their case beyond reasonable doubt. At the same time, the Hon'ble High Court held that the sentence of 20 years imposed by the Trial Court under the amended provision (Section 6 was amended on 16.08.2019) for the offence that was committed in the year 2014, prior to the amendment is unconstitutional and cannot be sustained and after considering the fact that there had been a love affair and the age of the 1st accused at the time of occurrence, the Hon'ble High Court passed the minimum sentence under the unamended provisions.

In the result, the Criminal Appeal is partly allowed.

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