

TAMIL NADU STATE JUDICIAL ACADEMY

**** VOL. XIX— PART03— MARCH 2024****

IMPORTANT CASE LAWS



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TABLE OF CONTENTS

SUPREME COURT - CIVIL CASES	4
Ramathal & Others Vs K. Rajamani (dead) through L.Rs & another C.A. No. 8830 of 2012 [2024 (2) CTC 115] [2023 INSC 737].....	4
Thangam and Anr. Vs Navamani Ammal CA. No. 8935 of 2011 [2024 (1) TLNJ 491 (Civil)] [2024 INSC 164].....	5
Vijay Vs Union of India and others C.A. No.4910 of 2023 [2024(1) MWN (Civil) 661] [2023 INSC 1030].....	6
Asian Avenues Pvt. Ltd., Vs Sri Syed Shoukat Hussain C.A.No.2927 of 2023 [2024 (2) CTC 366].....	7
Ansal Crown Heights Flat Buyers Association (Regd.) Vs. Ansal Crown Infrabuild Pvt. Ltd. and Others C.A. Nos. 4480-4481 of 2023 with C.A.No.4247 of 2023 [2024 2 MLJ 122 (SC)] [2024 INSC 54].....	8
SUPREME COURT - CRIMINAL CASES	9
William Stephen Vs State of Tamil Nadu and Anr C.A. No. 607 of 2024 & 608 of 2024 [2024 (1) TLNJ 235 (Criminal)] [2024 INSC 146]	9
Central Bureau of Investigation vs Kapil Wadhawan and Another CrI.A.No.391 of 2024 [2024 (1) MLJ (CrI) 452 (SC)] [2024 INSC 58].....	10
Shailesh Kumar Vs State of U.P. (Now state of Uttarakhand) CrI. A. No. 684 of 2012 [2024 (1) MLJ (CrI) 564 SC] [2024 INSC 143]	11
Upasana Mishra Vs Trek Technology India Pvt. Ltd. S.L.P(CrI.). No. 9062 of 2023 [(2024) 1 MLJ (CrI) 612 (SC)].....	12
Kusha Duruka Vs State of Odisha CrI. A. No. 303 of 2024 [2024 (1) MLJ (CrI) 599 (SC)] [LNIND 2024 SC 31] [2024 INSC 46].....	13
HIGH COURT - CIVIL CASES	14
V.M. Chettiar and Sons India L.L.P., and another Vs V. Swarnalatha OSA. No. 225 of 2020 & C.M.P. No.11278 of 2020 [2024 (2) CTC 18].....	14
Chitravel and Another Vs Jothimani CRP (MD) No. 798 of 2019 [2024 (2) CTC 197].....	15

Kamalam (Died) and Others Vs Sasikala and Others S.A. No. 69 of 2018 [2024 (2) CTC 218]
 Error! Bookmark not defined.

**Barath Building Construction (India) Private Limited Vs V. Gnanarajapushpam OSA.No.139
 and 140 of 2021 [2024 (1) TLNJ 449 (civil)].....16**

**M/s. Leo Educational Society Rep. By its Secretary Vs M/s. Punjab National Bank CRP. No.
 1811 of 2019 [2024 (1) TLNJ 475 (Civil)]17**

**National Insurance Company Limited Division Office, Trichy Vs R. Bettaiyan and another
 CMA. No. 2 of 2024 [2024 (1) TLNJ 504 (Civil)].....18**

**S.Devaraj Vs Jayalakshmiammal and Others S.A. No.652 of 2021 [2024 (1) TLNJ 541 (Civil)]
19**

Ponnuswamy and Another Vs Saranya OSA .No. 36 of 2024 [2024 (1) TLNJ 559 (Civil)].....20

Chithiradevi Vs. Veeramani C.M.S.A (MD) No. 49 of 2016 [2024 1 TLNJ 547 (Civil)].....21

M/s. Pothys Vs. S.A. Kumar & Others CRP. (PD). No. 234 of 2020 [2024 (1) LW 847]22

HIGH COURT – CRIMINAL CASES23

**Jaya Selvi Vs State by Station House Officer, Elavanasoorkottai Police Station, Kallakurichi
 District and Another Crl. OP No. 18509 of 2023 [(2024) 1 MLJ (Crl) 555].....23**

**Varun S/o.Babu and Another Vs State Represented by the Inspector of Police, Sulur Police
 Station Crl. O.P. No. 901 of 2024 [(2024) 1 MLJ (Crl) 502].....24**

**State Represented by the Public Prosecutor, High Court, Madras Vs K.Ponmudi @
 Deivasigamani, S/o. M. Kandaswamy, Villupuram and Another Crl. A. No. 53 of 2017 [2024
 (1) MLJ (Crl) 512] [LNIND 2023 MAD 5746].....25**

**Suo Motu in re: The State Directorate of Vigilance and Anti-Corruption and Another Suo
 Motu Crl. R.C. No. 1559 of 2023 [2024 (1) LW (Crl) 367]27**

**R.David @ Tamilvanan Vs G. Premalatha and Another Crl. R.C. No. 84 of 2024 and Crl.M.P.
 No.683 of 2024 [2024 (1) TLNJ 265 Crl]28**

SUPREME COURT - CIVIL CASES**Ramathal & Others Vs K. Rajamani (dead) through L.Rs & another
C.A. No. 8830 of 2012 [2024 (2) CTC 115] [2023 INSC 737]****Date of Judgment: 17.08.2023**

Specific Relief Act, 1963, (47 of 1963), Sections 34 & 37 – Evidence Act, 1872 (1 of 1872), Section 92, Proviso 1 – Non-est factum – Suit for Declaration of Injunction – Plaintiff illiterate – Defendant No.2 misused Power of Attorney given for development of land into Plots and sold property to his Father and Brother – Records show that property was highly undervalued – Deficit Stamp Duty paid after nine to eleven years shows that Defendants were waiting for outcome of suit – Consideration had not been paid to Plaintiff by Cheque or Demand Draft but by Cash – No documentary evidence such as Receipts signed by Plaintiff for having received consideration – Conduct of Defendants in terms of genuineness in lesser pedestal than Plaintiff – Decree passed by First Appellate Court, confirmed – Dismissal of Suit by High Court, set aside – Appeal by Plaintiff allowed.

Evidence Act, 1872 (1 of 1872), Section 92, Proviso 1 – Plea can be taken by an executor or signatory of the deed to plead that the said document is invalid as its executor / signatory was mistaken about its character at the time of executing / signing it.

Evidence Act, 1872 (1 of 1872), Section 92, Proviso 1 – Non-est factum – A legal maxim meaning “it is not the Deed” – A Plea of Non-est factum is a defence available in Contract Law allowing a person to escape effect of a document which he/she may have executed/signed.

Thangam and Anr. Vs Navamani Ammal CA. No. 8935 of 2011 [2024 (1) TLNJ 491 (Civil)] [2024 INSC 164]

Date of Judgment: 04.03.2024

Specific Relief Act - Genuiness of will – suit for declaration and injunction by plaintiff - decreed – reversed by appellate court and same set aside by High Court – further appeal – from the evidence it is found will cannot be held as suspicious on ground of alleged ill-health of the testator at the time of execution of will – nothing on record to suggest that the appellants were taking care of the property left by the testator immediately after his death or that any steps were taken by them to get the same mutated in their favor – testator was conscious that he had a wife and a minor child – certain parts of the properties were left by the testator for his widow and minor daughter – plaint of respondent contains ten paragraphs besides prayer – written statement by appellants had no specific para-wise reply to the plaint – as per CPC Rule 5 of Order VIII. Written statement must have para-wise reply to plaint – Allegations deemed to be admitted unless specifically denied.

**Vijay Vs Union of India and others C.A. No.4910 of 2023 [2024(1)
MWN (Civil) 661] [2023 INSC 1030]**

Date of Judgment: 29.11.2023

STAMP ACT, 1899 (2 of 1899), Section 35 & Article 23 of Schedule I-A [as applicable to State of M.P.] – Unstamped Agreement to Sell – Admissibility in evidence – Objection – State Amendment to Stamp Act treating Agreement of Sale acknowledging delivery of possession as conveyance for levy of Stamp Duty – Agreement to Sell executed prior to State Amendment – Explanation added by way of Amendment is declaratory and would apply prospectively – Explanation must not have effect of imposing unanticipated duty or depriving party of an anticipated benefit – Agreement to Sell executed prior to Amendment not chargeable with duty – Trial Court justified in admitting unstamped document as evidence. (Paras 22, 27 & 28)

EVIDENCE ACT, 1872 (1 of 1872), Sections 61 & 63 – Secondary Evidence – Non-availability of Primary evidence – Foundation to lead Secondary evidence – Admissibility – Opposite party in possession of Primary evidence – Party can be permitted to let in Secondary evidence to prove his case – Non-production of original must be accounted within contours of Evidence Act.

Asian Avenues Pvt. Ltd., Vs Sri Syed Shoukat Hussain C.A.No.2927 of 2023 [2024 (2) CTC 366]

Date of Judgment: 28-04-2023

Arbitration and Conciliation Act, 1996 (26 of 1996), Section 8 – Suit for cancellation of Development Agreement – Scope and applicability of Arbitration Clause in Agreement – The dispute, whether the development Agreement stands cancelled or whether Agreement can be lawfully cancelled is a dispute arising out of and in connection with said Agreement – As per Arbitration Clause, if issue concerning cancellation is not mutually resolved, it must be referred to Arbitration – Held, Trial Court justified in referring subject matter of Suit to Arbitration.

Ansal Crown Heights Flat Buyers Association (Regd.) Vs. Ansal Crown Infrabuild Pvt. Ltd. and Others C.A. Nos. 4480-4481 of 2023 with C.A.No.4247 of 2023 [2024 2 MLJ 122 (SC)] [2024 INSC 54]

Date of Judgment: 17-01-2024

Banking and Finance – Execution proceedings – Effect of moratorium on execution levied against Directors – Insolvency and Bankruptcy Code, 2016, Section 14, NCDRC had declined execution against Directors on the ground that the company was in moratorium under IBC – Imposition of a moratorium is not a bar to proceed against the Directors provided they are otherwise liable to abide by and comply with the order, which is passed against the company – Order of the NCDRC set aside, with liberty to the Directors to raise objections that they are not bound to implement the order sought to be executed [Paras 10-12] – Appeals partly allowed.

SUPREME COURT - CRIMINAL CASES

[William Stephen Vs State of Tamil Nadu and Anr C.A. No. 607 of 2024 & 608 of 2024 \[2024 \(1\) TLNJ 235 \(Criminal\)\] \[2024 INSC 146\]](#)

Date of Judgment: 21.02.2024

Indian Penal Code – Sections 361 & 364A r/w 34 – Kidnapping and demanding money – conviction and sentence 364A – appeal – Section 361 defines ‘kidnapping from lawful guardianship’ and no dispute about the lawful guardianship of PW-1 & PW-3 – first ingredient of Section 364A is that there should be a kidnapping or abduction of any person or a person should be kept in detention after such kidnapping or abduction – there was a prior enmity or animosity between parents of victim child and accused – no reason for the father of the victim to falsely implicate the appellants and tutor the child to depose against them – ‘kidnapping’ within meaning of Section 361 IPC established – Record relating to the call details discarded by the High Court as there was no certification under Section 65B Evidence Act – prosecution not able to connect the alleged demand and threat with both the accused – ingredients of Section 364A IPC not proved – Prosecution failed to lead cogent evidence to establish the second part of Section 364A about the threats given by the accused to cause death or hurt to such person – Appeals partly allowed – conviction and sentence under Section 364A IPC set aside and accused found guilty under section 363 IPC – Appeal partly allowed.

Central Bureau of Investigation vs Kapil Wadhawan and Another
Cri.A.No.391 of 2024 [2024 (1) MLJ (Cri) 452 (SC)] [2024 INSC 58]

Date of Judgment: 24.01.2024

Statutory Bail – Investigation pending against some accused after filing of the final report – Code of Criminal Procedure, 1973, Section 167 (2) – Once the Court takes cognizance of the offence pursuant to the filing of the final report, it is immaterial whether further investigation under Section 173(8) Cr.P.C. is pending against the other accused – Nor would non-production of some documents not available at the time of filing of the final report vitiate the final report – The accused is not entitled to claim statutory bail on the aforesaid basis alleging that the final report was incomplete or that it was not filed in terms of Section 173(2) – Order of the Delhi High Court reserved [Para 23] – Appeal allowed.

Final Report – When complete – Code of Criminal Procedure, 1973, Section 173(5) – The report under Section 173 is an intimation to the court that upon investigation into the cognizable offence, the investigating officer has been able to procure sufficient evidence for the court to inquire into the offence and the necessary information is being sent to the court – The report is complete if it is accompanied with all the documents and statements of witnesses as required by Section 175(5) – It is not necessary that all the details of the offence must be stated [Para 22].

**Shailesh Kumar Vs State of U.P. (Now state of Uttarakhand) CrI. A.
No. 684 of 2012 [2024 (1) MLJ (Cri) 564 SC] [2024 INSC 143]**

Date of Judgment: 26.02.2024

Use of case diary – Right of an accused to cross –examine the IO – Code of Criminal Procedure, 1973, Sections 172- Indian Evidence Act, 1872, Section 145 & 161 – Though Section 145 read with Section 161 of the Evidence Act deals with the right of a party including an accused to cross-examine as to previous statements, such a right is limited and restrictive when it applied to Section 172 Cr.P.C - Right to cross - examine would be available when the author of a case diary uses it to refresh his memory or the court uses it for contradiction – On facts, case diary found to have missing pages, and a clear attempt was made to correct the dates – Trial Court perused the case diary for the purpose of contradiction but strangely fixed the burden of proof (onus) on the accused to explain the corrections made – Corrections made in the case diary indicate that the FIR was ante-dated - Conviction and sentence set aside(Paras 27 & 38) – Appeal allowed.

General Diary - Cannot precede an FIR- A General Diary entry cannot precede the registration of FIR, except in cases where preliminary inquiry is needed- An FIR is to be registered on receipt of information disclosing the commission of a cognizable offence, and the same is to be recorded thereafter in the case diary. (Para 28).

Upasana Mishra Vs Trek Technology India Pvt. Ltd. S.L.P(Crl.). No. 9062 of 2023 [(2024) 1 MLJ (Crl) 612 (SC)]

Date of Judgment: 12.12.2023

Negotiable Instruments- Dishonor of cheque - Statutory notice must demand payment of the cheque amount- Negotiable Instruments Act, 1881, Section 138- The statutory notice made a demand for Rs. 6,50,000 which was not the cheque amount together with interest and costs of Rs. 50,000 – The Court clarified that if the complainant had demanded the cheque amount and given a break up of that sum together with interest and costs, the notice would have been valid- However, in the instant case, the absence of there being a clear demand for the cheque amount renders the statutory notice invalid- Order of the Delhi High Court, set aside and the summoning order of the Magistrate, set aside (Paras 6 &8) - Appeal allowed.

Kusha Duruka Vs State of Odisha CrI. A. No. 303 of 2024 [2024 (1) MLJ (CrI) 599 (SC)] [LNIND 2024 SC 31] [2024 INSC 46]

Date of Judgment: 19.01.2024

Second bail Application – Details and copies of earlier bail applications filed by the applicant which have been decided must be mandatorily annexed – A clear statement must be set out in the petition as to whether a similar application is pending before any court – It must also be indicated at the top of the bail application whether the application is the first, second or third etc application – The application should be heard by the same judge who decided the earlier application unless he/she is unavailable/superannuated or is otherwise incapacitated – Directions issued to all Registrar Generals of High Courts to bring the same to the notice of the respective Chief Justice for suitable action [Para 20(i)-(iii)] – Appeal dismissed.

Disposed or pending bail applications - Registry must generate a report and place it before the court – The Registry of the Court must annex a report generated from the system about decided or pending bail application(s) in the crime case in question – The same system needs to be followed even in the case of private complaints as all cases filed in the trial courts are assigned specific numbers (CNR No.), even if no FIR number is there [Para 20(iii)]

HIGH COURT - CIVIL CASES

**[V.M. Chettiar and Sons India L.L.P., and another Vs V. Swarnalatha
OSA. No. 225 of 2020 & C.M.P. No.11278 of 2020 \[2024 \(2\) CTC 18\]](#)**

Date of Judgment: 11.01.2024

Contract Act, 1872 (9 of 1872) – Interpretation of Contract – Final Agreement – Whether contingent – Three Agreements entered into between parties – First Agreement acknowledging receipt of payment and stipulating time for further payment, contingent on successful completion of Contract – Second Agreement records death of Promisee and substitution of original Promisee by his wife and contains acknowledgement of liability by Promisor – Under Final/Third Agreement, Defendant-Company acknowledging liability to pay to the Plaintiff, Wife of Promisee, irrespective of non-completion/implementation of project – Suit for Recovery of money, held, rightly decreed against Company.

Code of Civil Procedure, 1908 (5 of 1908), Order 22, Rule 5 & Order 1, Rule 9 – Suit for Recovery of Money filed by the Widow of the Original Promisee alone – Non-impleading of other Legal Heirs – Validity of – Three Agreements acknowledging receipt of money and liability to repay – Upon death of such Promisee, Promisor entering into Agreement with Wife of deceased Promisee acknowledging their liability to her – In such circumstances, Suit for Recovery filed by such Wife maintainable.

Companies Act, 1956 (1 of 1956) – Recovery of Money – Personal liability of Director for debt owed by Company – Whether arises – Agreements pertaining to receipt of money entered into by Company and signed by Director on behalf of Company – No Contract, wherein Director took personal liability of debts – Mere joinder of Director to the Suit for Recovery would not lead to fastening of liability on her as she had merely participated in the subject transaction on behalf of the Company – In absence of any express Contract, Decree passed against Director, held, erroneous and set aside.

**Chitravel and Another Vs Jothimani CRP (MD) No. 798 of 2019 [2024
(2) CTC 197]**

Date of Judgment: 20.12.2023

Section 5 of the Limitation Act – Condonation of delay - Sufficient cause –suit for partition dismissed – Appeal filed with delay of 1757 days – Application allowed – Revision against - Contention that advocate demanded exorbitant fees and on account of non – payment, did not inform about decree, not acceptable- Affidavits accusing lawyer’s is sadly gaining popularity – It is not a healthy trend – Records show that respondent came to know about dismissal of suit much earlier than what is pleaded – No sufficient cause to condone delay – Order of Appellate court set aside – Revision allowed.

**Barath Building Construction (India) Private Limited Vs V.
Gnanarajapushpam OSA.No.139 and 140 of 2021 [2024 (1) TLNJ 449
(civil)]**

Date of Judgment: 14.02.2024

Section 34, Arbitration and Conciliation Act – Construction Agreement – Earnest money paid – cancelled due to not getting the plan approved – within the agreed period – Arbitration – Award – set aside by High Court on the ground of delay in getting planning permission and non-identification of property at the time of agreement – appeal – an award can be set aside only if ground is made out within the four corners of Section 34 – Award if opposed to public policy and patently illegal are two of several grounds to set aside award – agreement itself provides only six months to get approvals, but not able to get even after years – It demonstrates that appellant not ready and willing to perform his part of contract – readiness and willingness is sine qua non for a person to be favoured with a decree for specific performance – same is absent – a minor infraction of law, cannot be a ground to set aside award – property already leased out to 3rd party before joint development agreement – possession is also with the 3rd party - once there is a registered lease deed and the 3rd party is in possession under a valid title, an agreement to develop the said land by the owner, who has parted with possession in favor of 3rd party, cannot be enforced – even respondent is also responsible for the fiasco, but, when it comes to specific performance it is the plaintiff or the person who seeks specific performance has to suffer the consequences by entering into such agreement – Original Side Appeal dismissed.

M/s. Leo Educational Society Rep. By its Secretary Vs M/s. Punjab National Bank CRP. No. 1811 of 2019 [2024 (1) TLNJ 475 (Civil)]

Date of Judgment: 23.02.2024

Section 25, Tamil Nadu Buildings Lease and Rent Control Act – Fixation of fair rent – order of rent controller – affirmed by appellate authority – revision by landlord – not clear as to whether Ex.P6/sale deed produced by landlord to fix market value for demised premises situated near to same or not – market value fixed by rent controller not supported by any concrete evidence – Tenant does not question the fixation of fair rent by filling any appeal or revision, hence tenant bound to pay the fair rent fixed by courts below, till fair rent re-fixed – order of Rent Controller and Appellate authority set aside – matter remanded back to Rent Controller to dispose original application – Revision allowed.

National Insurance Company Limited Division Office, Trichy Vs R. Bettaiyan and another CMA. No. 2 of 2024 [2024 (1) TLNJ 504 (Civil)]

Date of Judgment: 08.01.2024

Section 166 & 173, Motor Vehicle Act – A fatal accident – 28 years old veterinary doctor died – father and mother who were 58 and 49 of claimed compensation – awarded Rs.56.16 lakhs – Appeal by Insurance Company – MACT has come to the conclusion that the possibility of deceased having become unconscious due to head injury had not been ruled out by way of proper medical evidence and therefore, the benefit of doubt has been given to the claimants in making award – Section 166 of MV Act is a provision which falls under the category of beneficial legislation – same to be benevolently and liberally constructed – Insurance company has not raised the point that the deceased was allegedly riding on the wrong side of the road – Appeal Dismissed.

S.Devaraj Vs Jayalakshmiammal and Others S.A. No.652 of 2021
[2024 (1) TLNJ 541 (Civil)]

Date of Judgment: 28.02.2024

Specific Relief Act, 1963, Section 16(c) – Ex-parte decree passed in a suit for specific performance of sale agreement – condone delay petition by D.1 & 2 to file appeal also dismissed – D.4 to 7/ purchasers contested suit – Trial Court held that ex parte decree against the D.1 & 2 would have no bearing on the D.4 to 7 as they purchased even prior to passing ex parte decree – Appeal by plaintiff dismissed – 2nd appeal – To pay the balance consideration of Rs. 1,15,000/-, plaintiff paid at a regular intervals over three years – Even at the end of agreement period he was owing a sum of Rs. 1,03,960/- - even after three years plaintiff had paid 50% of consideration – It clearly shows inability of plaintiff to raise funds and his intention to prolong the agreement – Contention of plaintiff that an unregistered sale deed executed, but the same is not mentioned in plaint – balance sum deposited to the credit of the suit only after the ex parte decree passed in the suit – Plaintiff was neither ready nor willing to proceed with the agreement of sale – Second Appeal dismissed.

Ponnuswamy and Another Vs Saranya OSA .No. 36 of 2024 [2024 (1) TLNJ 559 (Civil)]

Date of Judgment: 04.03.2024

Hindu Widows' Remarriage Act – Succession certificate sought by R.1/ Wife of deceased – Resisted by parents of the deceased on the ground that there was no marriage and also R1 has re-married – Marriage has been registered under Hindu Marriage Registration (Tamil Nadu) Rules, 1967 – Once registration made, there is a presumption of marriage – no fault of Court for rejection of contention regarding absence of marriage – Contention that upon re-marriage, the rights of a widow in her husband's property ceases – but same overlooks the fact that Hindu Widows' Remarriage Act was repealed by the Hindu Widows' Remarriage (Repeal) Act, 1983 – Appeal dismissed.

**Chithiradevi Vs. Veeramani C.M.S.A (MD) No. 49 of 2016 [2024 1
TLNJ 547 (Civil)]**

Date of Judgment: 05.03.2024

Hindu Marriage Act, 1955, Sections 13(1)(i-a) and 13(1)(i-b) – Divorce petition by husband – ground of cruelty and desertion of wife within 6 months of marriage – dismissed but reversed by appellate court – 2nd appeal – Trial and Appellate Court negated the allegation of desertion within six months of marriage – Couples were employed in Police Department demanding timeless duty – despite serving in different destinations till 2003 and even thereafter, they had co-habited together – matrimonial issues were only because of continuous demand of the petitioner compelling respondent to pay his debts out of her income – 1st appellate court granted divorce on cruelty basis only on the fact that lodging false complaint against husband – Petitioner and respondent were habitual in lodging complaint against each other – Appellate Court concluding that lodging a criminal complaint by wife would amount to mental abuse and cruelty – not correct – It ought not to have reversed the findings of Trial Court when the evidence on record are fully in favour of the respondent who was always willing to live with husband for the sake of herself and her daughter – CMSA allowed.

M/s. Pothys Vs. S.A. Kumar & Others CRP. (PD). No. 234 of 2020
[2024 (1) LW 847]

Date of Judgment: 24-10-2024

Code of Civil Procedure, 1908 (CPC) - Order VII Rule 11; Code of Civil Procedure, 1908 (CPC) - Section 151; Limitation Act, 1963 - Section 2(j), Limitation Act, 1963 - Section 3; Securitisation And Reconstruction Of Financial Assets And Enforcement Of Security Interest Act, 2002 - Section 17, Securitisation And Reconstruction Of Financial Assets And Enforcement Of Security Interest Act, 2002 - Section 18, Securitisation And Reconstruction Of Financial Assets And Enforcement Of Security Interest Act, 2002 - Section 34, Securitisation And Reconstruction Of Financial Assets And Enforcement Of Security Interest Act, 2002 - Section 8; Security Interest (enforcement) Rules, 2002 - Rule 8 (8); Transfer Of Property Act, 1882 - Section 100, Transfer Of Property Act, 1882 - Section 55, Transfer Of Property Act, 1882 - Section 55 (6), Transfer Of Property Act, 1882 - Section 55(4), Transfer Of Property Act, 1882 - Section 55(6), Transfer Of Property Act, 1882 - Section 56 (6).

Civil - Complaint - Rejection of - Order 7 Rule 11 of Civil Procedure Code, 1908 (CPC) - Present civil revision petition challenges order which dismissed petition under Order 7 Rule 11 of CPC, which aimed to reject plaintiff's complaint - Whether order under challenge need interference - Held, court below found suit maintainable and filed within limitation period - Suit's purpose was to recover sums paid by plaintiff to respondents 2 to 4 - Lower court rightly dismissed application seeking rejection of complaint - Revision dismissed.

HIGH COURT – CRIMINAL CASES**Jaya Selvi Vs State by Station House Officer, Elavanasoorkottai Police Station, Kallakurichi District and Another CrI. OP No. 18509 of 2023 [(2024) 1 MLJ (CrI) 555]****Date of Judgment: 30.11.2023****Statutory Bail- Broken periods of custody- Code of Criminal Procedure, 1973, Section 167(2) - In this case Petition for Cancellation of bail dismissed.**

The prosecution alleged that the accused were involved in running a chit fund and had cheated the petitioner of Rs.10,00,000. The first accused was remanded to judicial custody on 03.01.2023. The defacto complainant contended that the bail granted to the accused was wrongly done under Section 167(2) of the Criminal Procedure Code (CrPC). The High Court intervened and cancelled the bail, directing the accused to be taken into custody. However, the accused applied for bail again and was granted bail by the Judicial Magistrate-I.

The High Court imposed a condition for the accused to deposit Rs. 8,00,000, which was deemed inappropriate by the court. The court held that imposing such a condition would defeat the purpose of default bail under Section 167(2) of the CrPC. The court upheld the order of the Judicial Magistrate-I, Ulundurpet, dated 13.07.2023, and dismissed the petition to cancel the bail granted to the accused.

**Varun S/o. Babu and Another Vs. State Represented by the
Inspector of Police, Sulur Police Station CrI. O.P. No. 901 of 2024
[(2024) 1 MLJ (CrI) 502]**

Date of Judgment: 01.02.2024

Criminal Procedure Code, 1973, Section 167(2) - Narcotic Drugs and Psychotropic Substances Act, 1985, Section 36A(4) - Default bail- E-filing of charge sheet- Code of Criminal Procedure, 1973, Section 167(2) - E- filing mechanism is officially recognized as a mode of filing, consequently, the date of e-filing must be taken to be the date of filing. The date on which the hard copy is brought before the court cannot be taken as the date of filing and in every case, the date of filing can only be the date on which the e-filing is done and that should be incorporated as the date of filing in the official website- This practice has to be consistently followed by all the Courts to avoid any future confusion- In this instant case, e- filing of the final report was done on the 178th day. i.e., 13.11.2023, the cognizance of the final report was taken on 15.11.2023 and the case was also numbered on the same day – Application for statutory bail filed under Section 167(2) of Cr. P.C, read with Section 36A(4) of the NDPS Act. i.e., on the 180th day, not maintainable – Liberty granted to seek regular bail- Petition dismissed.

**State Represented by the Public Prosecutor, High Court, Madras Vs
K.Ponmudi @ Deivasigamani, S/o. M. Kandaswamy, Villupuram and
Another CrI. A. No. 53 of 2017 [2024 (1) MLJ (CrI) 512] [LNIND 2023
MAD 5746]**

Date of Judgment: 19.12.2023

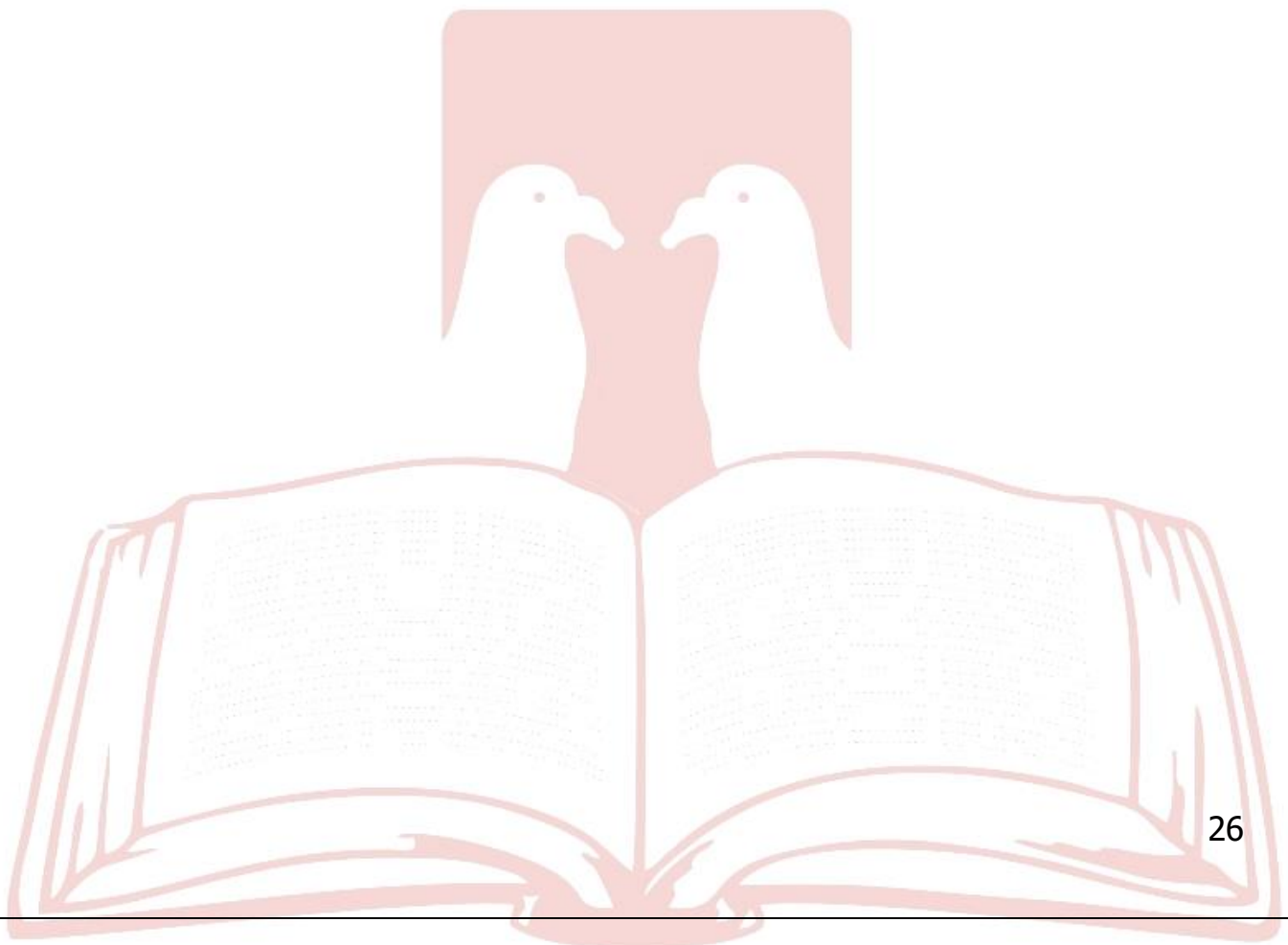
Prevention of Corruption – Source of income of a public servant cannot be tested with reference to IT Returns- Prevention of Corruption Act, 1988, Section 13(1)(e) Income Tax Returns cannot be held as proof for the legal source of income by the assessee for the purpose of payment of Tax- The legality of the source of income is to be tested independently- While doing so, the Phrase “ known source of income” found in Section 13(1)(e) of P.C. Act, must be primarily considered as income that would be earned by a public servant from his office – This is commonly known as remuneration or salary – On facts, trial court erred in taking the IT returns to reckon the income of the accused public servant (Para 61) – Order of acquittal, set aside- Appeal allowed.

Abetment- Wife aiding a public servant to deal with his ill- gotten wealth – Indian Penal Code, 1860, Section 109- Aiding a Public Servant to hold his ill-gotten money will not fall within the true sense of a benami transaction but as an illegal act/ understanding between the parties to hide the ill- gotten money from the scrutiny of Law Enforcing Agency (Para 84).

Appeal against acquittal- Scope of interference – Code of Criminal Procedure, 1973, Section 378- A duty is cast upon the appellate court to re-appreciate the evidence to ascertain whether any of the accused committed an offence- The impugned judgment is unreasonable as relevant and convincing materials have been unjustifiably eliminated in the process of reasoning, the same constitutes sufficient reasons for interference (Para 92).

Words and Phrases- “ Income” – The term “ income “ by itself, is elastic and has a wide connotation – Whatever comes in or is received, is income- But,

however wide the import and connotation of the term” income”, it is incapable of being understood as meaning receipt having no nexus to one’s labour, or expertise, or property, or investment, and having further a source which may or may not yield a regular revenue- These essential characteristics are vital in understanding the term “ income”(Para 61).



Suo Motu in re: The State Directorate of Vigilance and Anti-Corruption and Another Suo Motu CrI. R.C. No. 1559 of 2023 [2024 (1) LW (CrI) 367]

Date of Judgment: 26.02.2024

I.P.C., Sections 109, 120-B, 420, Prevention of Corruption act, Section 19, Criminal Procedure Code, Section 197

Court initiated this suo motu proceeding finding that the order of the special court discharging second respondent (A3) from the case suffered from illegality. Conduct of the special court in entertaining the second discharge application contrary to the directions of this court is thoroughly condemnable and is seriously suspect on several counts - Relevant date for sanction is the date on which the court takes cognizance of the offences – By applying section 19(2) the special court concludes that as A3 was a minister at the time of commission of the offence, the authority competent to remove him (A3) was the Governor and not the Speaker. Whether a second discharge petition is maintainable – whether prosecution of 2nd respondent is bad for want of sanction and who is the competent authority to grant sanction under section 19 in respect of the offences alleged to have been committed by second respondent.

R.David @ Tamilvanan Vs G. Premalatha and Another Crl. R.C. No. 84 of 2024 and Crl.M.P. No.683 of 2024 [2024 (1) TLNJ 265 CrI]

Date of Judgment: 01.03.2024

Criminal Procedure Code, 1973, Section 125 & 126 (2) – Maintenance case – Conditional order by family Court – not complied with by petitioner/husband – Instead petitioner filed a petition to set aside the conditional order – Since conditional order was not complied, request of the petitioner was rejected – Revision against – Petitioner met with an accident and took treatment as inpatient and also needs continuous treatment due to serious head injury – hence non-compliance of conditional order condoned – petitioner already deposited Rs.1,00,000/- - further directed to deposit the balance amount of Rs.1,25,000/- within a period stipulated and also directed to pay interim maintenance till final order is passed – Revision allowed.
