



TAMIL NADU STATE JUDICIAL ACADEMY

Vol: XVI

Part: 05

May, 2021

IMPORTANT CASE LAW



HEADQUARTERS, CHENNAI

No.30/95, P.S.K.R. Salai, R.A. Puram, Chennai – 600 028

Phone Nos. 044- 24958595 / 96 / 97 / 98 Fax: (044) 24958595

Website: www.tnsja.tn.nic.in E-Mail: tnsja.tn@nic.in / tnsja.tn@gmail.com

REGIONAL CENTRE, COIMBATORE

No.251, Scheme Road, Race Course, Coimbatore - 641 018.

Telephone No: 0422 - 2222610/710

E-Mail: tnsja.rc.cbe@gmail.com

REGIONAL CENTRE, MADURAI

AlagarKoil Road, K.Pudur, Madurai - 625 002.

Telephone No: 0452 - 2560807/811

E-Mail: tnsja.rc.mdu@gmail.com

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Sl. No	CAUSE TITLE	CITATION	DATE OF JUDGMENT	SHORT NOTES	Pg. No.
5.	Rahul S Shah -Vs- Jinendra Kumar Gandhi & Others	CDJ 2021 SC 304	22-04-2021	<p><u>Land Acquisition Act - Section 30</u> <u>Civil Procedure Code – Section 47 or under Order XXI,</u>The Court exercising jurisdiction under Section 47 or under Order XXI of CPC, must not issue notice on an application of third-party claiming rights in a mechanical manner. Further, the Court should refrain from entertaining any such application that has already been considered by the Court while adjudicating the suit or which raises any such issue which otherwise could have been raised and determined during adjudication of suit if due diligence was exercised by the applicant. Further it was directed by Supreme Court that the Executing Court must dispose of the Execution Proceedings within six months from the date of filing, which may be extended only by recording reasons in writing for such delay.</p>	2

SUPREME COURT - CRIMINAL CASES

S. No	CAUSE TITLE	CITATION	DATE OF JUDGMENT	SHORT NOTES	Pg. No
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4.	Yogesh -Vs- State of Haryana	CDJ 2021 SC 261	06.04.2021	<u>Indian Penal Code, 1860, Sections 302, 364A, 376, 216 read with Section 120B Circumstantial evidence</u> –Though post-mortem report discloses that victim was sexually assaulted, FSL Report on record does not establish any connection of accused with sexual assault on deceased victim. The circumstances must be conclusive in nature and should form a cogent and consistent chain, so as to prove the guilt of the accused.	4
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HIGH COURT - CIVIL CASES

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2.	M/s. Nilgiri Petroleum Company, A partnership firm represented by its Managing Partner, Madan -Vs- The Nilgiri Diocesan Society, A Registered Christian Public Charitable Society, Represented by its Secretary, R.V. Father A. Anthonysamy	CDJ 2021 MHC 1867	22.04.2021	<u>Rajasthan Societies Registration Act, 1860 - Section 6</u> As per Section 6 of the Societies Registration Act, every Society registered under this Act may sue or be sued in the name of the President, Chairman, or Principal Secretary or trustees as shall be determined by the Rules and Regulations of the Society. Plaintiff society is entitled to maintain the suit through its Secretary in accordance with the Memorandum and Rules and Regulations.	5
3.	C.B. Manokaran -Vs- P. Valli& Others	CDJ 2021 MHC 1734	20.04.2021	<u>Appointment of an Advocate Commissioner</u> - For determining the lands in particular survey number and for determining which one of lands in the said survey numbers had actually been conveyed, appointment of an Advocate Commissioner would certainly be of much assistance to resolve issue raised by both parties.	6
4.	Thangammal& Others -Vs- Malathi& Another	CDJ 2021 MHC 1340	08.04.2021	<u>Civil Procedure Code - Section 96</u> The equitable relief of specific performance is granted based on the readiness and willingness, time agreed to complete the contract, the sale price fixed and the amount paid as advance, transfer of possession as part performance and other covenants in the agreement. The intention of the parties and their conduct are the factors which guide the court to decide which side the equity lie.	6

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5.	V.S.P. Sivan and others -Vs- Balashanmugam and others	2021 (2) CTC 255	11.01.2021	<u>Civil Procedure Code –Order 7 Rule 11</u> When previous suit was contested and reached finality between parties, such previous suit cannot be reagitated in fresh suit. Plaint was rejected, as abuse of process of law.	6
6.	G.Ramanujam -Vs- State of TN, rep. by its District Collector, Tuticorin and others.	2021 (2) CTC 143	21.12.2020	<u>Tamil Nadu Patta Pass Book Act, 1983 – Section 6</u> Patta is only a prima facie evidence of title, and not as a conclusive evidence of title.	7
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HIGH COURT - CRIMINAL CASES

S. No	CAUSE TITLE	CITATION	DATE OF JUDGMENT	SHORT NOTES	Pg. No
1.	B.Ramesh Kumar - Vs- S.Murugan	(2021) 2 MLJ (Crl) 67	19.01.2021	<u>Negotiable Instruments Act, 1881-Section 139-</u> Notice was not served properly. The presumption under Section 139 of the Act, without minding that this provision merely raised presumption in favour of holder of cheque, does not extend to existence of debt.	9
2.	Mayandi -Vs- State rep. by the Inspector of Police, Thirukurugudi Police Station, Tirunelveli District	(2021) 1 MLJ (Crl) 591	18.09.2020	<u>Indian Penal Code 1860- Section 302</u> Prosecution did not mark accident register, did not examine driver of ambulance, doctor who declared deceased as brought dead and witness to recovery of weapon. Motor Cycle seized by Police was not produced before Court. Chemical analyst reported that knife did not contain blood strains. Prosecution failed to prove guilt	9
3.	G.Krishnaveni and others -Vs- State Rep. by the Inspector of Police, Villianur Police Station, Puducherry and another	(2021) 1 MLJ (Crl) 617	22.02.2021	<u>Criminal Procedure Code, 1973 – Sec.482 – Domestic Violence Act</u> - When husband and wife had hardly lived together, an attempt made by the wife to rope in all the family members in the criminal Proceedings, is an abuse of process of Court	10
4.	Rajan @ Italy Rajan @ Soundararajan -Vs- State rep. by the Inspector of Police, Q-Branch Police Station (Crime Investigation), Nagapattinam District and another.	(2021) 1 MLJ (Crl) 626	11.02.2021	<u>Criminal Procedure Code, 1973 – Section 428</u> The period stayed in Special Camps cannot be taken into consideration towards set-off under Section 428Cr.P.C.	10
5.	Yasar Arafath -Vs- State rep. by the Inspector of Police, B.4, Race Course Police Station, Coimbatore	(2021) 2 MLJ (Crl) 113	17.03.2021	<u>Indian Penal Code, 1860- Section 302 Death Sentence</u> No other material to show that appellant had intrinsic criminal propensity and would be menace to society.	10
6.	A.Ramesh and others -Vs- State, rep. by Inspector of Police, Srivilliputhur Town Police Station, Virudhunagar District and	(2021) 2 MLJ (Crl) 137	05.03.2021	<u>Indian Penal Code, 1981- Section 503</u> - Mere verbal utterance will not attract offence under section 503 of IPC	11

S. No	CAUSE TITLE	CITATION	DATE OF JUDGMENT	SHORT NOTES	Pg. No
	another				
7.	R.Marimuthu @ Samikannu and another -Vs- State rep. by the Inspector of Police, Velliyani Police Station, Karur District	(2021) 2 MLJ (Crl) 149	23.02.2021	<u>Criminal Procedure Code, 1860 – Section 379</u> - Courts of law shall not be carried away by mere sentimentalities or conjectures or surmises or status of accused as habitual offender, but bound to proceed on basis of legal evidence alone.	11
8.	Ashok Kumar -Vs- State rep. by the Inspector of Police, Thiruporur Police Station, Kanchipuram District	(2021) 2 MLJ (Crl) 187	18.03.2021	<u>Circumstantial Evidence – POCSO Act, 2012, Section 6 – Indian Penal Code, 1860 Sect.302 and 376A</u> Appellant not subjected to medical examination. DNA report establishes presence of blood of male other than appellant. Smears and swabs taken from Victims vagina were sent to TNFSD for examination, but two reports were given by TNFSD. In both reports, spermatozoa was not detected. Recovery of chappal in entrance to house of victim, even if accepted, cannot by itself lead to interference that appellant was perpetrator of ghastly offence.	12
9.	A.Radhika -Vs- Wilson Sundararaj	(2021) 1 MWN (Crl) 381	26.02.2021	<u>Indian Penal Code, 1860 – Section 211 Summons issued under Section 340 of Cr.P.C.</u> - If Investigating Officers are made to face criminal proceedings in all cases, where accused was acquitted of charges, it will amount to interference with independence of authority in conducting the investigation.	12
10.	Kumaresan -Vs- Inspector of Police, Central Crime Branch, Salem	(2021) 1 MWN (Crl) 538	08.03.2021	<u>Indian Penal Code- Section 191 to 193 and 420</u> Mere issuance of Certificate by petitioner/Village Administrative Officer is not sufficient to implicate him as an accused. No criminal proceedings can be initiated against Officer performing official duty without there being strong materials.	13

SUPREME COURT CIVIL CASES

CDJ 2021 SC 228

Narbada Devi -Vs- Himachal Pradesh State Forest Corporation

Date of Judgment : 22 Mar 2021

The Provisos of insurance policy specifically disclose that compensation will not be paid in respect of injury of the injured if he is under the influence of intoxicating liquor. The injured is not entitled to compensation since on facts it is proved that he was intoxicated.

CDJ 2021 SC 153

Joydeep Majumdar -Vs- Bharti Jaiswal Majumdar

Date of Judgment: 26.02.2021

The question which requires to be answered here is whether the conduct of the respondent would fall within the realm of mental cruelty. The allegations are levelled by a highly educated spouse and they do have the propensity to irreparably damage the character and reputation of the appellant. When the reputation of the spouse is sullied amongst his colleagues, his superiors and the society at large, it would be difficult to expect condonation of such conduct by the affected party. The explanation of the wife that she made those complaints in order to protect the matrimonial ties would not justify the persistent effort made by her to undermine the dignity and reputation of the appellant. In these circumstances, the wronged party cannot be expected to continue with the matrimonial relationship and there is enough justification for him to seek separation. It is a definite case of cruelty inflicted by the respondent against the appellant.

CDJ 2021 SC 284

Haryana State Industrial & Infrastructure Development Corporation Limited & Others -Vs- RameshwarDass (Dead) & Others

Date of Judgment: 08-04-2021

It is also clear that the concerned authorities have passed on the entire burden to the subsequent allottees of the acquired land and have received amounts in excess of what have been made over to the landholders of the concerned villages by way of compensation. The compensation as aforesaid, was made over to the landholders from the concerned villages, without they being required to furnish any security. Any adjustment in terms of direction (ie) in the Judgment in Wazir vs. State of Haryana, at this length of time, will thus entail in recovery of money from the landholders through revenue recovery proceedings and in recalculating and conferring the corresponding benefits upon the allottees of the acquired land.

CDJ 2021 SC 257

Kiran Devi -Vs- The Bihar State Sunni Wakf Board & Others

Date of Judgment: 05-04-2021

Alienation by manager of coparcenary property for legal necessity. Mere payment of rent by great grandfather or by the grandfather of the plaintiff raises no presumption that it was a joint Hindu family business. Document could not have been said to be unreliable on the basis of the statement of the plaintiff who is not a party to such transaction. Merely for the reason that signatures in the translated copy do not tally with the Urdu copy is not sufficient to hold the surrender letter as unreliable as the translation can be incorrect but the correctness of the document in has not been disputed by the executor or by the acceptor. The said document could not have been said to be unreliable on the basis of the statement of the plaintiff who is not a party to such transaction. It is one thing to say that the document is unreliable and another to say that the document does not bind the plaintiff. It was held that the document was validly proved and accepted by the Wakf Board. Therefore, the act of surrender of tenancy was for the benefit of the Joint Hindu family.

CDJ 2021 SC 304

Rahul S Shah -Vs- Jinendra Kumar Gandhi & Others

Date of Judgment : 22-04-2021

The Court exercising jurisdiction under Section 47 or under Order XXI of CPC, must not issue notice on an application of third-party claiming rights in a mechanical manner. Further, the Court should refrain from entertaining any such application(s) that has already been considered by the Court while adjudicating the suit or which raises any such issue which otherwise could have been raised and determined during adjudication of suit if due diligence was exercised by the applicant. The Court should allow taking of evidence during the execution proceedings only in exceptional and rare cases where the question of fact could not be decided by resorting to any other expeditious method like appointment of Commissioner or calling for electronic materials including photographs or video with affidavits. The Court must in appropriate cases where it finds the objection or resistance or claim to be frivolous or mala fide, resort to Sub-rule (2) of Rule 98 of Order XXI as well as grant compensatory costs in accordance with Section 35A. Under section 60 of CPC the term "...in name of the judgment- debtor or by another person in trust for him or on his behalf" should be read liberally to incorporate any other person from whom he may have the ability to derive share, profit or property. The Executing Court must dispose of the Execution Proceedings within six months from the date of filing, which may be extended only by recording reasons in writing for such delay.

SUPREME COURT CRIMINAL CASES

(2021)1 Supreme Court Cases 118

Rajesh @ Sarkari and another -Vs- State of Haryana

Date of Judgment: 03.11.2020

The principles for conducting Test Identification Parade, which have emerged from the precedents of the Supreme Court, were summarized in the above citation.

The identification in the course of a Test Identification Parade is intended to lend assurance to the identity of the accused. The finding of guilt cannot be based purely on the refusal of the accused to undergo an identification parade. The ballistics evidence connecting the empty cartridges and the bullets recovered from the body of the deceased with an alleged weapon of offence is contradictory and suffers from serious infirmities. In this backdrop, a refusal to undergo a TIP assumes secondary importance, if at all, and cannot survive independently in the absence of being a substantive piece of evidence.

CDJ 2021 SC 161

Shivaji Chintappa Patil -Vs- State of Maharashtra

Date of Judgment: 02.03.2021

Though in a case of direct evidence, motive would not be relevant, in a case of circumstantial evidence, motive plays an important link to complete the chain of circumstances. The motive relied on by the prosecution is the ill-treatment by the appellant meted out to the deceased for not arranging the money from her mother. PW-3-Anandi, mother of the deceased has stated, that the accused and deceased had been to her house and stayed for four days prior to the incident. It would thus show, that the relations between the deceased and accused were cordial. It will not be safe to rely on the uncorroborated evidence of such a witness. The prosecution has utterly failed to prove motive beyond doubt. As such, an important link to complete the chain of circumstances is totally absent in the present case.

CDJ 2021 SC 260

Sonu -Vs- SonuYadav

Date of Judgment: 05.04.2021

There are specific allegations of harassment against the accused on the ground of dowry. An order without reasons is fundamentally contrary to the norms which guide the judicial process. The administration of criminal justice cannot be reduced to a mantra containing a recitation of general observations. That there has been a judicious

application of mind by the judge, must emerge from the quality of the reasoning which is embodied in the order granting bail. While the reasons may be brief, it is the quality of the reasons which matters the most. That is because the reasons in a judicial order unravel the thought process of a trained judicial mind. It is time that the reasons in support of orders granting bail comport with a judicial process, which brings credibility to the administration of criminal justice.

CDJ 2021 SC 261

Yogesh -Vs- State of Haryana

Date of Judgment:06.04.2021

The recovery of clothing apparel as well as tiffin box etc., belonging to the victim, in the absence of any other material evidence on record pointing towards the guilt of the accused, cannot be termed sufficient to hold that the case was proved beyond reasonable doubt. Not only those circumstances are not conclusive in nature but they also do not form a cogent and consistent chain so as to exclude every other hypothesis except the guilt of the appellants.

CDJ 2021 SC 258

Gurdev Singh -Vs- State of Punjab

Date of Judgment: 06.04.2021

In a murder case, the accused commits murder of one or two persons, while those persons who are dealing in narcotic drugs are instrumental in causing death or in inflicting death blow to number of innocent young victims who are vulnerable; it causes deleterious effects and deadly impact on the society; they are hazard to the society. Organized activities of the underworld and the clandestine smuggling of narcotic drugs and psychotropic substances into this country and illegal trafficking in such drugs and substances shall lay to drug addiction among a sizeable section of the public, particularly the adolescents and students of both sexes and the menace has assumed serious and alarming proportions in the recent years. Therefore, it has a deadly impact on the society as a whole.

In most of the cases the main supplier, who may be from outside country may not be apprehended and/or arrested. Even a carrier who is having the knowledge that he is carrying with him narcotic substance/drugs and is found to be with huge commercial quantity of narcotic substance/drugs can be awarded the sentence higher than the minimum sentence provided under the Act. Therefore, while awarding the sentence/punishment in case of NDPS Act, the interest of the society as a whole is also required to be taken in consideration.

HIGH COURT CIVIL CASES

CDJ 2021 MHC 1869

E. Vedi -Vs- Jothi @ Naduthai

Date of Judgment: 26.04.2021

In so far as the proof of adultery is concerned, it is well settled legal position in the case of Rajendra Agarwal v. Sharda Devi, AIR 1993 M.P.142 that the direct evidence to prove adultery is very rare and therefore it is accepted as a rule that it can be proved by circumstantial evidence. In the case on hand, the appellant has proved by documentary evidence that one Malayan, while staying as tenant in a portion of his building, had improper conduct with the respondent and finally he has established that he got rid of the tenant by paying Rs.44,000/- to leave the rented shop.

The filing of the false criminal complaint by joining hands with the tenant who is alleged to be a paramour, the filing of the maintenance case as well as the filing of the civil suit seeking a share in the appellant's property by the respondent would cause mental agony to the appellant-husband. Moreover, when the appellant and the respondent are living separately for more than 25 years, naturally both of them are deprived of the matrimonial life. The respondent has not even filed any petition for restitution of conjugal rights. Even before the mediation, the respondent has refused to participate in the mediation. Granting of divorce by the trial Court dissolving the marriage between the couple can never be found fault with.

CDJ 2021 MHC 1867

M/s. Nilgiri Petroleum Company, A partnership firm represented by its Managing Partner, Madan -Vs- The Nilgiri Diocesan Society, A Registered Christian Public Charitable Society, Represented by its Secretary, R.V. Father A. Anthonysamy

Date of Judgment : 22.04.2021

As per Section 6 of the Societies Registration Act, every Society registered under this Act may sue or be sued in the name of the President, Chairman, or Principal Secretary or trustees as shall be determined by the Rules and Regulations of the Society and, in default of such determination, in the name of such persons as shall be appointed by the Governing Body for the occasion and also further provided that it shall be competent for any person having a claim, or demand against the society, to sue the President or Chairman, or Principal Secretary or the trustees thereof, if on application to the governing body some other officer or person be not nominated to be the defendant.

As per the Memorandum and Rules and Regulations of the plaintiff Society, the plaintiff Society is entitled to sue through its Secretary and in the light of the decision of the Constitution Bench of the Apex Court reported in AIR 1962 SC 458 and the

decision reported in 2010 9 SCC 354, the plaintiff society is entitled to maintain the suit through its Secretary in accordance with the Memorandum and Rules and Regulations.

CDJ 2021 MHC 1734

C.B. Manokaran -Vs- P. Valli& Others

Date of Judgment : 20.04.2021

No prejudice would be caused by appointment of an Advocate Commissioner for the purpose of inspecting the property and submitting a report. The lands are fixed in nature. Survey numbers have been allotted. It is now an issue of determining the lands in particular survey and determining which one of the lands in the said survey numbers had actually been conveyed by the 1st, 2nd and 3rd defendants to the 4th defendant. Local investigation and for assisting the Court to decide the dispute, appointment of an Advocate Commissioner would certainly be of much assistance to resolve the issue raised by both parties.

CDJ 2021 MHC

Thangammal& Others -Vs- Malathi& Another

Date of judgment: 08.04.2021

The equitable relief of specific performance is granted based on the readiness and willingness, time agreed to complete the contract, the sale price fixed and the amount paid as advance, transfer of possession as part performance and other covenants in the agreement. The intention of the parties and their conduct are the factors which guide the court to decide which side the equity lie.

The conduct of the appellants to hurriedly create a sale deed in favour of the 5th defendant for a consideration of Rs.1,50,000/- when the offer by the plaintiffs was for Rs.9,00,000/- out of which Rs.2,25,000/- already paid and balance Rs.6,75,000/- ready to pay is a relevant factor to hold that the subsequent transaction is not for valuable consideration.

2021 (2) CTC 255

V.S.P.Sivan and others -Vs- Balashanmugam and others

Date of Judgment: 11.01.2021

When an issue has already reached finality, the parties cannot be allowed to re-agitate the same. Hence, the present suit is nothing but an abuse of process of law and also re-agitation.

2021 (2) CTC 143

**G.Ramanujam -Vs- State of Tamil nadu, rep. by its District Collector,
Tuticorin and others.**

Date of Judgment: 21.12.2020

For making the entries in the Register of Patta pass book, the Tahsildar is guided exclusively by the preexisting rights of the owners of the immovable property. In other words, a Tahsildar cannot generate a title in a person merely with the entries in the Register of Patta pass book unless there existed a prior title in that person. The entries on the title which a Tahsildar has in his Register is what he enters based on the information he had received, and hence they do not qualify for being considered as a primary source of information on title. It is precisely for this reason the Courts have always held that a patta is not a document of title, but as one that may corroborate a title.

2021 (2) CTC 167

S.Umamaheswari -Vs- P.Murugesan

Date of Judgment: 07.12.2020

As pointed out by the Hon'ble Supreme Court in Sunil Kumar vs. Ram Prakash, AIR 1988 SC 576, Section 38 would have to be read along with the provisions of Section 41(h) of the Specific Relief Act. Section 41(h) of the provisions of Specific Relief Act provides circumstances under which a Court ought not to grant injunction. One of the circumstances is when an equally efficacious remedy can certainly be obtained by another usual mode of proceeding except in case of breach of trust. There is no claim for breach of trust in any of the plaints. Therefore, the court cannot grant an injunction as prayed for by the plaintiff. When there is an embargo on the Court from granting a Decree for injunction, no useful purpose will be served by dismissing the revisions and directing the parties to go to trial.

2021 (2) CTC 840

P.Sivakumar -Vs- S.Beula

Date of Judgment: 25.02.2021

A person, admittedly a Christian, has to prove conversion if he or she seeks to claim that he or she is a Hindu. There is total absence of evidence in this regard. Various documents particularly the official documents which are maintained by people, who are statutorily obliged to maintain such documents, disclose that the respondent is a Christian. The claim of mistake has been left unsubstantiated. Misrepresentation regarding the religion would be a misrepresentation regarding a material fact and would affect the very validity of the marriage.

2021 (2) CTC 431

Lakshminarayanan and others -Vs- Family Manager, V.Suriyanarayanan

Date of Judgment: 21.11.2020

Settlement Deed executed subsequent to Will, being irrevocable, implicitly cancels all other Testamentary document including Will. To prove the settlement, after laying foundation that the original got lost with the Advocate, who was dealing the Rent Control cases, secondary evidence namely the registered certified copy of the settlement deed is marked as Ex.A.2. Law permits secondary evidence only on fulfillment of certain conditions. In case attesting witness to the document is not available or does not support the execution, under section 71 of the Evidence Act, proof by other evidence is permitted. Settlement deed was not proved by examining attesting witnesses and the plaintiff's claim of permissive occupation was also not established, while the defendant's claim of long and continuous possession had been proved. Positive evidence of defendant established continuous possession and enjoyment for atleast 25 years. There is no perversity in finding of lower appellate court that defendant established title by adverse possession.

2021 (2) CTC 645

A.Mohammed Isac -Vs- K.Sineevasayya and others

Date of Judgment : 01.02.2021

In the present case, the parties are different from the earlier suit and description of the property has also differed. Moreover, the respondents are not parties to the Sale Deed and the Will which were challenged in the present suit, as such the Judgment and Decree passed in the earlier Suit will not operate as Res judicata. While considering the Petition for rejection of plaint, it has to be proved that both Suits arose from the same cause of action and both the Suits must be between the same parties and the earlier Suit must be decided on merits.

HIGH COURT CRIMINAL CASES

(2021) 2 MLJ 67

B.Ramesh Kumar -Vs- S.Murugan

Date of Judgment: 19.01.2021

Notice was not served properly on the petitioner in terms of Clause (b) of proviso to Section 138 of Negotiable Instruments Act. Both the Trial Court and the Appellate Court have not considered these vital aspects while proceeding to dispose the case and heavily placed reliance on the presumption under Section 139 of the Negotiable Instruments Act, without minding that this provision merely raises a presumption in favour of a holder of the cheque that the same has been issued for discharge of any debt or other liability. However, this presumption does not extend to the existence of a debt also. Existence of a legally enforceable debt is not a matter of presumption under Section 139 of Negotiable Instruments Act.

(2021) 1 MLJ 591

**Mayandi -Vs- State rep.by the Inspector of Police, Thirukurugudi Police Station,
Tirunelveli District**

Date of Judgment : 18.09.2020

Neither the Ambulance Driver, nor the Doctor who declared the deceased as brought dead was examined. The Accident Register was not marked by prosecution. The deceased, according to P.W.1, was struggling for his life in a pool of blood when she witnessed him and when there are Hospitals available at Erwadi near the place of occurrence, there is no proper explanation for taking the deceased to a far away place, instead of providing him any first aid from a nearby hospital.

Except the evidence of P.Ws.4 and 5, there is no other concrete evidence to establish the case of the prosecution. Complainant in her FIR did not name prosecution witnesses No.4 and 5 to have witnessed incident but only stated that prosecution witness no.2 and 3/strangers witnessed incident. If really prosecution witness No.4 and 5 who are close relatives of deceased witnessed incident, same would have been definitely mentioned by complainant in FIR. Alleged eye witnesses/P.W.2 and 3 turned hostile. Presence of P.W./son-in-law of deceased at time and place of occurrence is highly doubtful. Prosecution failed to prove the guilt of the accused.

(2021) 1 MLJ (CRL) 617

G.Krishnaveni and others -Vs- State Rep.by the Inspector of Police, Villianur Police Station, Puducherry and another

Date of Judgment: 22.02.2021

The 2nd respondent did not even stay with A-1 for a single day in the matrimonial home. The Court also found that there was no domestic violence committed against the 2nd respondent and there was also no dowry harassment against the 2nd respondent. These findings have a lot of significance since it is based on the appreciation of evidence recorded by the concerned Court. The 2nd respondent has the proclivity to give complaints making serious allegations. When both the husband and wife have hardly lived together, the allegations made by the 2nd respondent against the petitioners/family members, regarding dowry demand clearly looks inherently improbable. The 2nd respondent has made an attempt to rope in all the family members in the criminal proceedings and the same is an abuse of process of Court.

(2021) 1 MLJ 626

Rajan @ Italy Rajan @ Soundararajan -Vs- State rep. by the Inspector of Police, Q-Branch Police Station (Crime Investigation), Nagapattinam District and another.

Date of Judgment: 11.02.2021

The moment the petitioner came out of the prison after he was released on bail, the period thereafter can never fall within the parameters of Section 428. The Court which granted bail to the petitioner, considering the fact that the petitioner was a Sri Lankan Refugee took into consideration the Special Camps provided for them and directed the petitioner to stay in that camp. By no stretch, this can be construed as a continued detention in a prison, which is a sine qua non for claiming set off under Section 428. The period stayed in Special Camps cannot be taken into consideration towards set-off under Section 428.

(2021) 2 MLJ 113

Yasar Arafath -Vs- State rep. by the Inspector of Police, B.4, Race Course Police Station, Coimbatore

Date of Judgment: 17.03.2021

This is yet another run-of-the mill case of murder for gain and nothing more or nothing less. This case does not fall under the category of “rarest of rare cases” for awarding the death penalty. It is not the case of the prosecution that the appellant went

about sadistically dismembering a living person. The post-mortem certificates (Exs.P.15 and P.32) clearly show that victim's death had occurred due to strangulation of her neck and all the other injuries have been found to be post-mortem and not ante-mortem ones. After having caused the death of victim for relieving the ornaments worn by her, the appellant had dismembered her body parts in order to avoid detection. That is why, he had stuffed the dismembered parts in two suitcases and had hidden a pair of thighs above the cupboard. There is no other material, much less any material worth the salt, to show that the appellant had an intrinsic criminal propensity and would be menace to society. Therefore, unable to confirm the sentence of death that has been slapped by the trial court on the appellant and substitute the same with life imprisonment together with a rider that the appellant cannot be released before the expiry of 25 years of actual imprisonment under any statutory remission or commutation scheme.

(2021) 2 MLJ (CrI) 137

**A.Ramesh and others -Vs- State, rep.by Inspector of Police, Srivilliputhur Town
Police Station, Virudhunagar District and another**

Date of Judgment: 05.03.2021

With regard to the criminal intimidation said to have been committed by the petitioners with regard to the misappropriation of the amount, no specific date, is mentioned by the defacto complainant in the complaint. A bald allegation is made to the effect that when the defacto complainant questioned the petitioners about the misappropriation, they threatened him that they will kill him. But, this will not amount to criminal intimidation as defined under section 503 of IPC since mere verbal utterance will not attract the offence.

(2021) 2 MLJ (CrI) 149

**R.Marimuthu @ Samikannu and another -Vs- State rep.by the Inspector of
Police, Velliyani Police Station, Karur District**

Date of Judgment: 23.02.2021

Prosecution has miserably failed to prove the recovery of M.O.1/Thali chain and that thereby failed to prove the connection between the accused and the occurrence. It is highly doubtful as to whether P.W.7 had really visited the occurrence place at 3.00 p.m., and prepared the Observation Mahazar and Rough Sketch and recovered M.O.2 and M.O.3. Serious doubt arises that after arresting the accused, the Sub-Inspectors of Police, Pasupathipalayam Police Station and Vangal Police Station, who were alleged to be the members of the special team, after due deliberation, consultation and discussion with Velliyani Police Station, have implicated the accused. The Court has no hesitation to hold that the investigation is tainted.

Courts of law shall not be carried away by mere sentimentalities or the conjectures or surmises or the status of accused as habitual offender, but bound to proceed on the basis of legal evidence alone.

(2021) 2 MLJ 187

**Ashok Kumar -Vs- State rep.by the Inspector of Police, Thiruporur Police Station,
Kanchipuram District**

Date of Judgment: 18.03.2021

According to Malar (P.W.1) and Divya (P.W.2), they saw the appellant around 7.30 p.m., running away through the pathway adjacent to their house. She has not stated that she saw the appellant running away around 7.30p.m., hurriedly from the house of the victim. Appellant was not subjected to medical examination as required under Section 53-A and 54 Cr.P.C makes the date and time of the arrest suspect. DNA report establishes presence of blood of male other than appellant. P.W.16 in his evidence has stated that he took smears and swabs from victim's vagina and sent the same to TNFSD for examination. But, he has not stated as to how two reports were given by TNFSD. In both these reports, spermatozoa was not detected. Fact that the finger prints were lifted from the Limca bottle (M.O.10) in the place of occurrence was not even reported to the jurisdictional court. Recovery of the chappals (M.O.1) in entrance to the house of victim, even if accepted, cannot, by itself, lead to interference that appellant was perpetrator of ghastly offence. Investigation of the case of a murder of a young girl has been done very shabbily.

2021 (1) MWN (Cr.) 381

A.Radhika -Vs- Wilson Sundararaj

Date of Judgment: 26.02.2021

The main grievance of the respondent seems to be that he was unnecessarily made to undergo the agony of a malicious prosecution. Since the prosecution was investigated by the petitioner, the respondent wants to rope in the petitioner as if the said Officer prosecuted a false charge. If Investigating Officers are going to be exposed to such proceedings in all cases, where the accused persons are acquitted from all charges, it will directly interfere with the independence of the authority in conducting an investigation. This is the reason why the Hon'ble Supreme Court in the case of Santokh Singh and others vs. Izhar Hussan and another {(1973) (2) SCC 406} held that the words "false charges" must be read along with the expression "institution of criminal proceedings" which relates back to the initiation of criminal proceedings and it can never be related to an alleged false charge framed after the filing of the final report. The offence under section 211 IPC has not been made out against the petitioner.

2021 (1) MWN (Cr.) 538

Kumaresan -Vs- Inspector of Police, Central Crime Branch, Salem

Date of Judgment: 08.03.2021

No criminal proceedings can be initiated against an Officer performing an official duty, without there being any strong materials. The mere issuance of Death Certificate by the petitioner cannot expose him to a criminal proceeding and this is more particularly, due to the fact that a Competent Court has declared the death of Duraisamy on the same day as indicated by the petitioner and also the Certificate, as given by the Tahsildar was in line with the Order passed by the learned Judicial Magistrate. It is, therefore, clear that there are absolutely no grounds to continue the investigation as against the petitioner and the same will amount to abuse of process of law.
