

TAMIL NADU STATE JUDICIAL ACADEMY

** VOL. XVIII— PART 05 — MAY 2023**

IMPORTANT CASE LAWS



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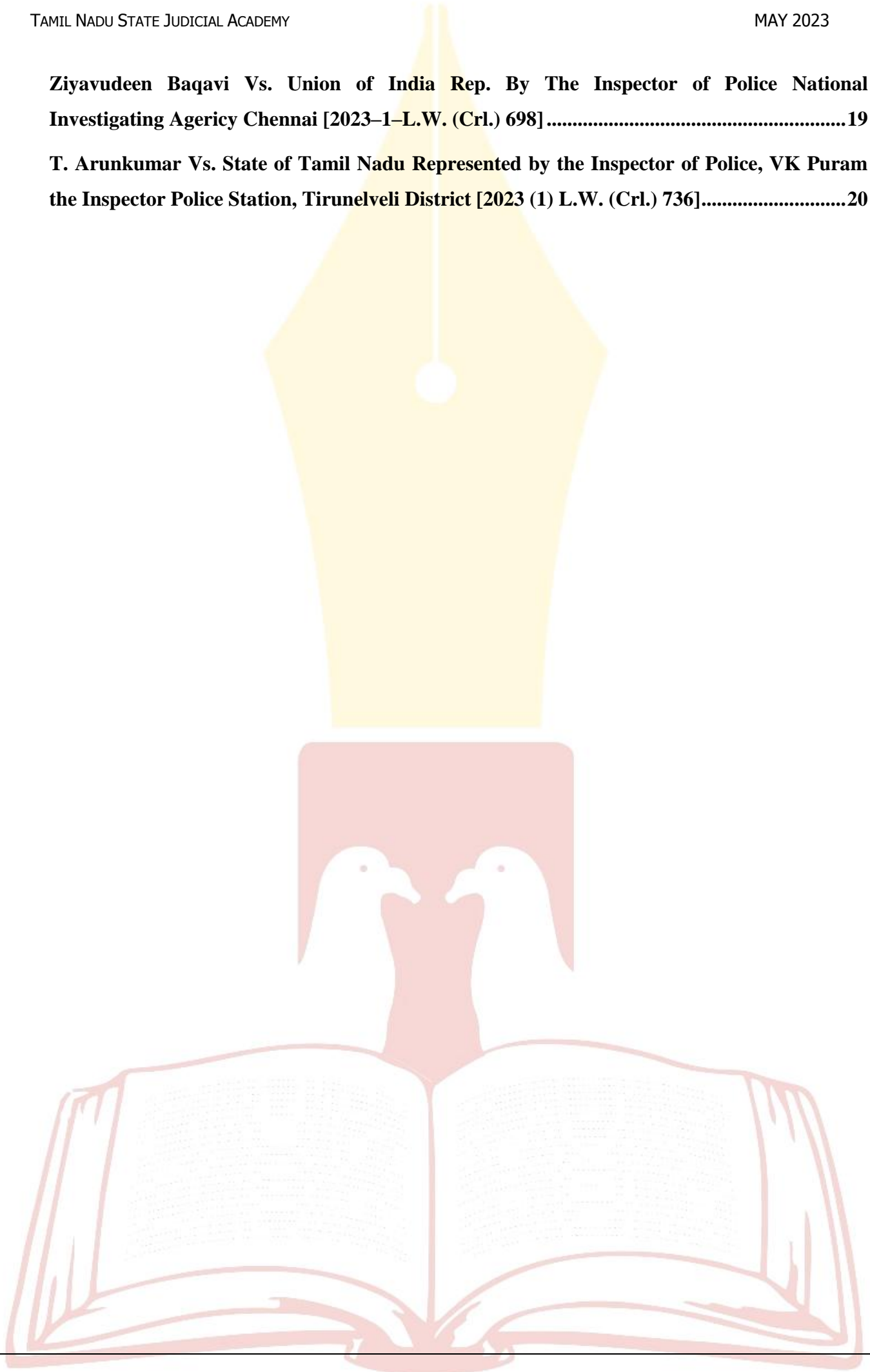
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SUPREME COURT – CIVIL CASES**[Manickam @ Thandapani & Anr. Vs. Vasantha \[2023 \(2\) LW 673\]](#)****Date of Judgment : 05-04-2023**

Specific Relief Act, Section 22, proviso, Section 28, delivery of possession, prayer, whether needed.

Transfer of Property Act, Section 55(1)(f) C.P.C., Order 21 Rules 32(5), 35(3).

Execution/Specific Performance, delivery of possession, prayer, whether needed – Appeal against 2017-2-L.W.161 whereby execution petition filed by the appellants – decree holders to seek possession of the property of which sale deed was executed in their favour was found to be not maintainable.

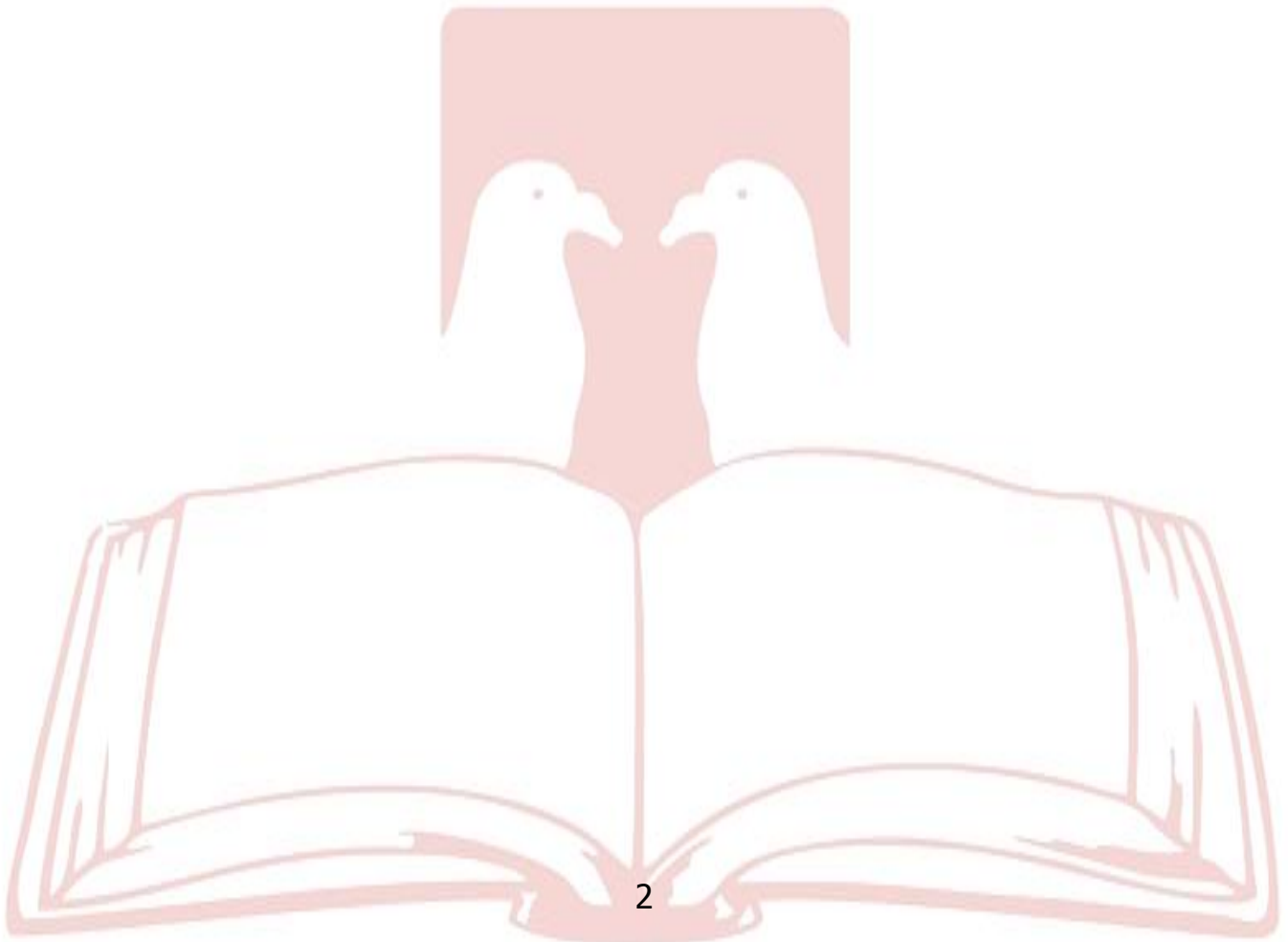
Appellants filed a suit seeking specific performance of the agreement and to direct the respondent to execute the sale after receiving the balance sale consideration.

Learned trial court declined to grant decree for specific performance but granted nominal damages – High Court decreed the suit as prayed. Appellants filed execution petition and it was allowed – Respondent filed a petitioner under Article 227 which was allowed on ground that no decree was granted to the appellants in respect of delivery of possession to the decree-holders; therefore, the execution for delivery of possession is not maintainable.

Held: Relief of possession is ancillary to the decree for specific performance and need not be specifically claimed.

Meaning of words in proviso "at any stage of the proceeding", what is, explained – proviso makes the provision directory as no penal consequences follow under Section 22(2) – Section 22(2) is a rule of prudence to ask for possession "in an appropriate case" – Section 22(2) is only directory and thus, the decree-holder cannot be non-suited for the reason that such relief was not granted in the decree

for specific relief – Expression "at any stage of proceeding" is wide enough to allow the plaintiffs to seek relief of possession even at the appellate stage or in execution even if such prayer was required to be claimed.



Gaddipati Divija and Anr. Vs. Pathuri Samrajyam and Ors.**[MANU/SC/0396/2023]****Date of Judgment: 18-04-2023**

Contract – Specific Performance – Agreement to sell – Section 16(c) of Specific Relief Act, 1963 – Vendor – Deceased executed agreement of sale with Respondent No. 1 to sell suit Schedule property for sale consideration out of which Respondent No. 1 paid certain amount as advance – Under said agreement, vendor agreed to execute sale deed in favour of Respondent No. 1 after demarcating land and receiving balance sale consideration within three months – Vendor was asked to get property measured, get its attachment removed, following which Respondent No. 1 would pay balance sale consideration – Thereafter, Respondent No. 1 filed suit before Senior Civil Judge seeking Specific Performance of agreement of sale by directing Defendants to execute sale deed in Plaintiff's favour – Trial Court held that Plaintiff failed to prove that he was entitled for specific performance of contract – Aggrieved, Plaintiff – Respondent No. 1 filed appeal before High Court. Held, – In sale of immovable property there is no presumption that time is the essence of the contract, however, the court may infer performance in a reasonable time if the conditions are evident from the express terms of the contract, from the nature of the property, and from the surrounding circumstances – Specific Relief Act, 1963 – When specific performance of the terms of the contract has not been done, the question of time being the essence does not arise – Time would not be of essence in a contract wherein the obligations of one party are dependent on the fulfillment of obligations of another party.

Sabir Ali Khan Vs. Syed Mohd. Ahmad Ali Khan and Ors.**[MANU/SC/0377/2023]****Date of Judgment: 13-04-2023**

Civil – Adverse possession – Beneficiary of waqf – Sections 52 and 52(1) of Waqf Act, 1995, Sections 2(2)(i), 38 and 38(1) of U.P. Muslim Waqfs Act, 1936 and Sections 27 and 107 of Limitation Act, 1963 – Controller of Waqf Board invoked Section 52(1) of Act and directed Collector to recover and deliver possession of disputed land from unauthorized occupants–Respondents – It was thereupon that Collector directed Respondents to deliver possession of property to Waqf Board within thirty days – Respondent filed Appeal before Waqf Tribunal which stand allowed and order of Collector was set aside – Revisions were filed against the said order by Appellants before High Court – High Court had affirmed order passed by Tribunal on the ground that first Respondent had perfected title by adverse possession – Hence, present appeal – Whether beneficiary of waqf could succeed on strength of plea of adverse possession in regard to property of waqf and High Court was correct in finding that action was barred as it was not Article 96 of Limitation Act, which applied but Article 65 of Limitation Act, 1963 – Held, Article 65 of the Limitation Act, 1963 is applicable in the present case and Article 96 will not come to the aid of the appellant as it is a case of a void sale and not voidable sale. Appeal dismissed.

Shilpa Sailesh Vs. Varun Sreenivasan [MANU/SC/0502/2023]**Date of Judgment: 01.05.2023**

Family – Cooling off period – Waive of – Sections 13(1)(i-a), 13-B, 13B(2) and 23(2) of Hindu Marriage Act, 1956, Articles 142 and 142(1) of Constitution of India, Section 9 of Family Courts Act, 1984, Section 89 of Code of Civil Procedure, 1908 and Sections 320 and 482 of Code of Criminal Procedure Code, 1973 and Section 498-A of Indian Penal Code, 1860 – This Court in *Neeti Malviya v. Rakesh Malviya*, had doubted the view expressed in *Anjana Kishore v. Puneet Kishore* and *Manish Goel v. Rohini Goel* that this Court, in exercise of the power under Article 142 of the Constitution of India, cannot reduce or waive period of six months for moving second motion as stipulated in Sub-section (2) to Section 13-B of Hindu Marriage Act, 1956 – Hence, present reference – Whether scope and ambit of power and jurisdiction of this Court under Article 142(1) of Constitution of India need any interference, and while hearing transfer petition, or in any other proceedings, this court could exercise power under Article 142(1) of Constitution of India, in view of settlement between parties, and grant decree of divorce by mutual consent dispensing with period and procedure prescribed under Section 13-B of Act and also quash and dispose of other/connected proceedings and further this Court could grant divorce in exercise of power under Article 142(1) of Constitution of India when there was complete and irretrievable breakdown of marriage in spite of other spouse opposing prayer – Held, The Supreme Court, in exercise of power under Article 142(1) of the Constitution of India, has the discretion to dissolve the marriage on the ground of its irretrievable breakdown – Petition disposed off.

SUPREME COURT – CRIMINAL CASES**Karan @ Fatiya Vs. the State of Madhya Pradesh [(2023) 2 MLJ (CH) 193 (SC)]****Date of Judgment: 03–03–2023**

Juvenile Delinquent – Death Sentence Juvenile Justice (Care and Protection) Act, 2015, Sections 9(2) and 18 Indian Penal Code, 1860, Sections 201, 302, 363 and 376(2)(1) POCSO Act, Sections 5(m) and 6 – Trial Court convicted Appellant–accused for offence punishable under Sections 201, 302, 363 and 376(2)(i) of IPC and under Sections 5(m) and 6 of POCSO Act and also awarded death sentence High Court upheld order of conviction and death reference forwarded by Trial Court was affirmed, hence these appeals – Whether, Appellant could claim juvenility and consequently, benefit of sentence under Act 2015 – Held, Appellant was held to be less than 16 years, and therefore, maximum punishment that could be awarded was upto 3 years – Appellant had already undergone more than 5 years – His incarceration beyond 3 years would be illegal. Merits of conviction could be tested and conviction which was recorded could not be held to be vitiated in law because inquiry was not conducted by Juvenile Justice Board – It was only question of sentence for which provisions of Act 2015 would be attracted and any sentence in excess of what is permissible under said Act had to be accordingly amended as per the provisions of Act – Conviction of Appellant upheld, however, death sentence, set aside – Appeals partly allowed – Impugned judgment, modified.

S. Athilakshmi Vs. the State Rep. by The Drugs Inspector [(2023) 2 MLJ (Cri) 359 (SC)]

Date of Judgment: 15-03-2023

Quashing of Proceedings Sale of Prohibited Drugs – Code of Criminal Procedure, 1973, Section 482 Drugs and Cosmetics Act, 1940, Sections 18(c) and 27(b)(ii) Drugs Inspector filed complaint before Magistrate, for prosecuting Appellant under Section 18(c) of Act, punishable under Section 27(b)(ii) of Act Appellant filed application under Section 482 of CrPC for quashing criminal proceedings – Single Judge dismissed petition, hence this appeal – Whether, impugned criminal proceedings liable to be quashed – Held, in compliance of show cause notice, Appellant had produced multiple invoices from pharmaceutical shops to show her bonafides – Upon inspection of drugs by Drugs Testing Laboratory, they returned finding that drugs were of 'standard quality which indicates it was not a case where Appellant was operating shop to sell spurious medicines over counter – Sanction for prosecution given, prima facie, to suffer from vice of non-application of mind. No reference to any of documents, evidence or submissions submitted by either of parties, no reasons assigned or even explanation pertaining to delay which indicates it had been passed in mechanical manner – Sanctioning authority had not examined at all whether practicing doctor could be prosecuted under facts of case, considering small quantity of drugs and exception created in favour of medical practitioner under Rule 123, read with Schedule "K"– All these factors ought to have been considered by sanctioning authority – Order of Single Judge, set aside Impugned criminal proceedings, quashed – Appeal allowed.

Premchand Vs. the State of Maharashtra [(2023) 2 MLJ (Cri) 294 (SC)]**Date of Judgment: 03-03-2023**

Attempt to Murder – Appeal against conviction – Indian Penal Code, 1860, Section 307– Trial Court convicted and sentenced Appellant–accused for offence punishable under Section 307 of IPC– High Court confirmed order of Trial Court, hence this appeal – Whether, conviction for murder and sentence of life imprisonment, sustainable – Held, there were heated exchanges and Appellant gave blow to interested witness first, and thereafter to others one by one – Then again, victim, was third in series to be stabbed by Appellant and, thus, was not his target. Appellant too sustained injuries in scuffle and there was evidence on record that one of injuries was grievous – It was sudden quarrel, which could have been provoked by victim and interested witness that blows followed from each side – Circumstances in which incident occurred did clearly negate any suggestion of premeditation in mind – Trial Court lacked in objectivity by not examining facts and circumstances as to whether situation was likely to reasonably cause apprehension in mind of Appellant that there was imminent danger to his body, if he did not act in private defence. To impute intention to cause death or intention to cause that particular injury, which proved fatal, in these circumstances seems to be unreasonable. Appellant entitled to benefit of Exception 4 to Section 300 of IPC. Appellant conviction and sentence of life imprisonment, set aside. Appeal allowed.

**Balu Sudam Khalde and Another Vs. the State of Maharashtra [2023 2 MLJ
(Cri) 390 (SC)]**

Date of Judgment: 29-03.2023

Murder – Appreciation of oral evidence Indian Penal Code, 1860, Section 300 and 302 – Indian Evidence Act, 1872, Sections 6 and 7–High Court affirmed trial Court's order of conviction and sentence of Appellants/1st and 3rd accused under section 302 Code, hence this appeal – Whether High Court committed error in passing impugned judgment and order – Held, evidence of three eyewitnesses inspires confidence and nothing in their evidence on basis of which it could be said that they were unreliable witnesses – To fortify said view, suggestions made by defence counsel to eyewitnesses, reply to those establishing presence of accused persons as well as eyewitnesses in night hours could be definitely looked into – Suggestions made to witness by defence counsel and reply to such suggestions would definitely form part of evidence and could be relied upon by Court along with other evidence on record to determine guilt of accused – Sections 6 and 7 of Act 1872, in so far as, admissibility of statement of PW 3 coming to know about incident, immediately from PW 1 that victim had been assaulted and PW 1 had also suffered injuries and admitted by PW 1 in his evidence would be attracted with all its rigour – Having regard to nature of injuries caused by dangerous weapons like sickle and sword which, were applied on vital part of body, it was case of Section 302 of Indian penal code – Appellants inflicted as many as nine blows with dangerous weapon on deceased who was unarmed and helpless – No case made out by Appellants to interfere with impugned judgment and order of High Court – Appeal dismissed.

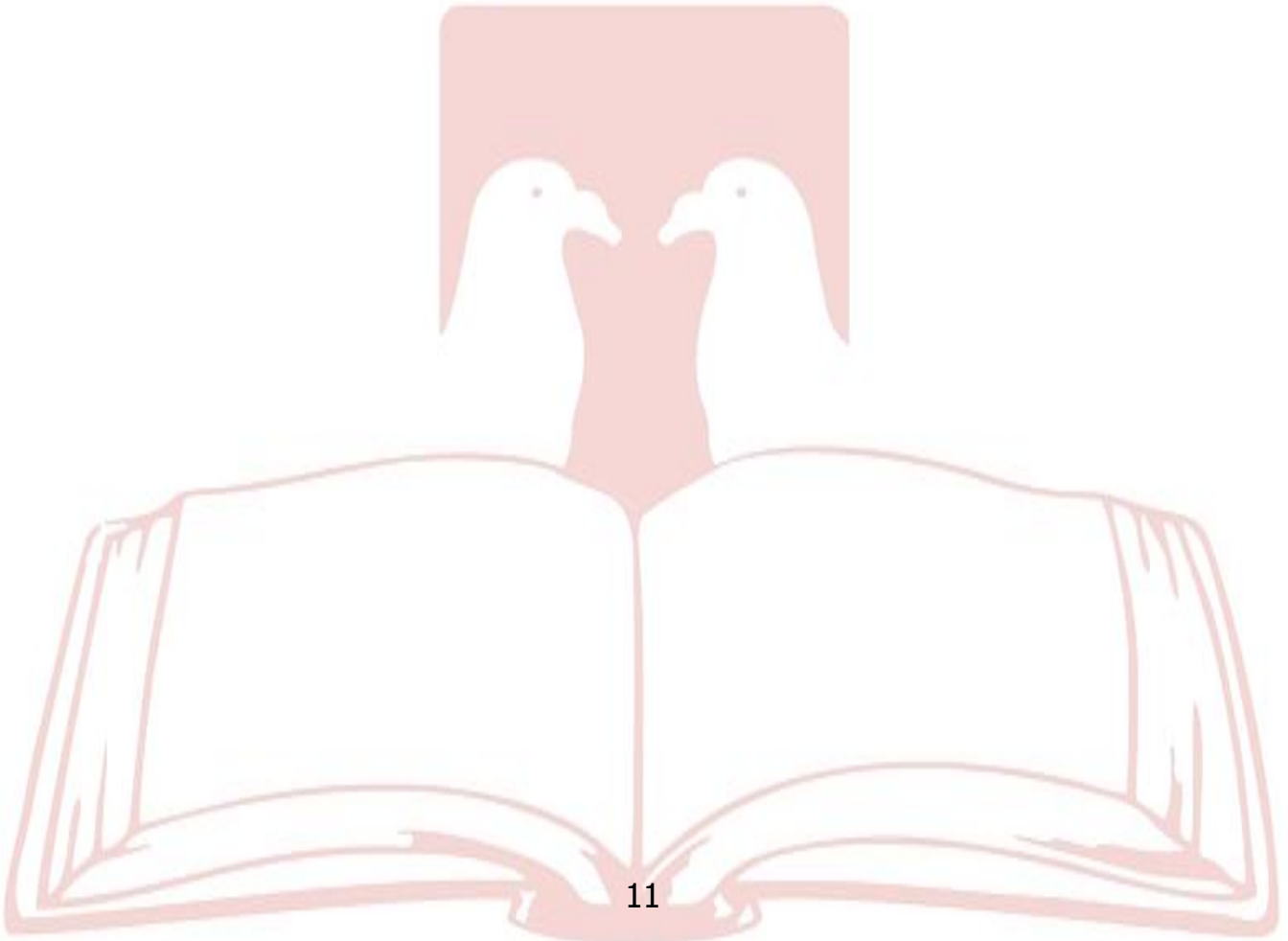
Charan Singh @ Charanjit Singh Vs. The State of Uttarakhand
[MANU/SC/0421/2023]

Date of Judgment: 20.04.2023

Criminal – Acquittal – Dowry death – Sections 201, 304B and 498A of Indian Penal Code, 1860 and Section 113B of Indian Evidence Act, 1872 – FIR was registered against accused persons for offence of dowry death, cruelty and destruction of evidence punishable under Sections 304B, 498A and 201 of Indian Penal Code – Matter was investigated and charge sheet was filed against accused persons – Trial Court, after evaluating evidence, convicted Appellant and other accused person under Sections 304B, 498A and 201 of Indian Penal Code – In appeal filed by convicts before High Court, conviction and sentence of brother-in-law and Mother-in-law were set aside and they were acquitted of charges, whereas conviction of Appellant was upheld – Hence, present appeal – Whether prosecution had proved its case beyond reasonable doubt – Held, Mere death of the deceased being unnatural in the matrimonial home within seven years of marriage will not be sufficient to convict the Accused under Section 304B and 498A of Indian Penal Code – The cause of death as such was not known – Appeal allowed and conviction and sentence were set aside.

HIGH COURT – CIVIL CASES**Santhi Vs. The District Medical Officer, Government General Hospital****Thiruvannamalai Town and others [2023 (2) LW 751]****Date of Judgment: 31-03-2023**

Medical negligence/Laparoscopy, child birth, awarding of compensation. Plaintiff underwent laparoscopic surgery but delivered a premature child after a gestation period of 8 months According to the plaintiff, she became pregnant only because Laparoscopic operation had not been conducted in a proper manner and therefore, came forward with a suit claiming contributory negligence damages whether applies – held: failure of the operation itself will amount to negligence and it is not incumbent on the part of plaintiff to specifically prove the negligence.



C. Mani [Died] & others Vs. K.Sampath & others [2023 (2) LW 755]**Date of Judgment: 08-03-2023**

C.P.C., Order 2 Rule 2, Order 7 rule 11 – Appellants are the legal representatives of sole plaintiff – Plaintiff entered into an agreement of sale with respondents – Plaintiff filed suit for bare injunction against respondents and others. Later, plaintiff filed suit for specific performance of agreement of sale with alternative prayer seeking refund of advance amount.

Defendants filed rejection of plaint on ground that subsequent suit was barred and application was allowed by the trial court holding plaintiff had the cause of action to file a suit for specific performance even when he filed the suit for injunction – challenge – Whether the subsequent suit is barred by Order 2 Rule 2 cannot be thrown out at the threshold merely on the statement by way of affidavits regarding identity of cause of action or on the basis of averment in the written statement – court has to see only the averments in the plaint – plaintiff himself has produced copy of plaint filed in the earlier suit – held, suit cannot be thrown at threshold on the application filed under Order 7 Rule 11 without even looking into the facts, documents and evidence in support of the plaint averments, particularly, when further reliefs are prayed for in the second suit.

**Dr. Maheswari and another Vs. Ramesh Ramiah and others [2023 (3) CTC
363]**

Date of Judgment: 22.02.2023

Code of Civil Procedure, 1908 (5 of 1908), Section 13 – Hindu Marriage Act, 1955 (25 of 1955), Section 13(1)(i – b) Foreign Judgment Divorce– Whether valid in India Decree of Divorce granted by Courts in USA, challenged by Wife Decree in USA granted on ground that parties had lived separately for one year– Held, Foreign Judgment, a conclusive Judgment if: (i) it is pronounced by Court of competent jurisdiction, (ii) is given on merits of case, (iii) is not opposed to Natural Justice, (iv) not obtained by fraud, (v) not delivered on breach of any law in force in India, and (vi) not founded on incorrect view of International Law or refuses to recognize Indian Law –In instant case, Divorce granted on ground that Wife had deserted Husband for a period of one year. However, under Section 13(1)(i–b), desertion for two years has to be pleaded and proved for Dissolution of Marriage on ground of Desertion. In such circumstances, Foreign Judgment of Divorce obtained by a Court where Wife had not submitted to Court's jurisdiction, a Judgment pronounced by a Court not having competent jurisdiction, ex parte Judgment opposed to Principles of Natural Justice, grounds available under Hindu Marriage Act, 1955 not recognized, Judgment on a ground which is not available in the said Act – held, Foreign Judgment not a conclusive Judgment and not binding on Plaintiff–Wife and cannot be enforced against her.

Balamurugan (died) & others Vs. Chandra & others [2023 (2) LW 636]**Date of Judgment: 20-04-2023**

Evidence Act, Sections 68, 69, 90, 114 – Succession Act, Section 63.

Twin conditions to be satisfied for proving a Will under section 69.

PW2, grand-daughter of testator confirmed that the signature found in the subject Will of A, her late father and one of the attesting witness, is only his signature .

No evidence produced by first defendant to disprove the contents of the Will – Registered will of 1969 appears to have been duly executed and attested in accordance with section 63 – Effect of maxim "*omnia praesumuntur rite esse acta*" – conditions under section 69 for proving the Will in the absence of both the attesting witnesses satisfied by the plaintiffs by proving signatures of the testator and the attesting witnesses found in the subject will are their genuine signatures and that a valid will was executed – Held, Not necessary to apply either section 90 or section 114.

**Ponnangan Vs. K.G. Nesan Thangaraju and others (Madurai Bench) [2023
(2) LW 664]**

Date of Judgment: 21-04-2023

C.P.C., Order 1 rules 10(1), (5), Order 18 rule 17 – Transfer of property Act, Section 52.

Petitioner / 16th defendant seeking to recall all the witnesses examined on the side of the plaintiff for cross-examination by the petitioner – 16th defendant a *pendente lite* purchaser is bound by his vendor's pleadings and evidence and does not have any independent right of cross examination of evidence petitioner is a party subsequently impleaded after the order of remand – whether petitioner is a necessary party to this case and whether the impleadment of the petitioner is hit by section 52 – Having plaintiff is not objected impleadment revision petitioner not justified in taking a plea that the transferee pending suit is not entitled to be impleaded as a party as of right – proceedings against petitioner/ 16th defendant shall be deemed to have begun on the date of allowing IA – Held, Trial Court commenced adjudication afresh on being remanded by the first appellate court, there is no illegality in permitting the petitioner / 16th defendant to cross examine the P.W's – CRP dismissed.

HIGH COURT – CRIMINAL CASES**S. Ganesh Anjineyar Sastri Vs. the Assistant Commissioner of Police,
Chennai and another [2023] 2 MLJ (CrI) 208]****Date of Judgment: 21-11-2022**

Code of Criminal Quashing of FIR Authorization by competent authority Procedure, 1973, Section 482 Indian Penal Code, 1860, Sections 294(b), 323 and 506(1)–SC/ST (Prevention of Atrocities) Act, 1989, Section 3– First Information Report filed against Petitioner/accused on complaint of Respondent/*defacto* Complainant for offences under Sections 294(b), 323, 506(1) of Indian penal code, 1860 and Sections 3(1)(x) and 3(1)(xi) of SC/ST Act, hence this quash petition – Whether criminal case against Petitioner was unsustainable and liable to be quashed – Held, Investigating Officer had not been appointed by State/Director General of Police/Superintendent of Police after taking into account his past experience, sense of ability and justice to perceive implications of case– In absence of authorization by competent authority, case investigated by person not authorized to investigate – Final Report filed without ascertaining whether de facto Complainant had source of income to advance more than Rupees One Crore to Petitioner and whether alleged incident happened in public view, when de facto Complainant went to house of Petitioner to collect said money. In view of vital lapse, criminal case against Petitioner unsustainable and liable to be quashed – Petition allowed.

R. Manikandan Vs. State by the Deputy Superintendent of Police, Nilgiri District [(2023) 2 MLJ (CrI) 245]

Date of Judgment: 01-03-2023

Abetment of Suicide–Demand of Dowry and Cruelty – Indian Penal Code, 1860, Section 306 – Trial Court convicted Appellant–accused for offence under Section 306 IPC and sentenced five years rigorous imprisonment and to pay fine, hence this appeal – Whether, there was any demand of dowry and cruelty on part of Appellant, which led to commission of suicide by deceased – Held, evidence of father, brothers, sister and uncle of deceased showed that entire family was opposed to deceased marrying Appellant – These relatives had initially suspected reason for death of deceased – It was at their insistence, re–post mortem was done and it came to light that deceased died of asphyxia due to hanging – Revenue Divisional Officer, who conducted inquiry, after recording statements of witnesses, also came to clear conclusion that there was no demand for dowry Demand for dowry was not reason behind suicide committed by deceased – Evidence of relatives of deceased did not establish any cruelty meted out by Appellant to deceased Neighbors have stated that Appellant and deceased were living happily – Appellant had also cited an incident that could not be considered as abetment for committing suicide and it could only be held to be hyper sensitiveness on part of deceased – Court below had virtually proceeded on assumption that Appellant was reason behind suicide committed by deceased Impugned judgment of conviction, set aside – Appeal allowed.

Annadurai Vs. Jaya [2023 SCC OnLine Mad 2604]**Date of Judgment: 21.04.2023**

Criminal Revision Case has been filed under Sections 397 read with Section 401 of Code of Criminal Procedure – Petitioner/ husband had filed a divorce petition under Section 13 (1)(i) (b) of Hindu Marriage Act and divorce was granted – Petitioner’s Wife filed a maintenance case in M.C.No.1 of 2014 before the Judicial Magistrate No.II, Madurantagam – The Trial Court awarded a monthly maintenance of Rs.7,500/- payable by the petitioner/husband to his wife – Claim Petition was filed by the wife and pending application the wife of the petitioner died – Thereafter, mother of the deceased filed CMP.No.2529 of 2021 to implead her as a petitioner and to permit her to recover the arrears of maintenance amount of Rs.6,22,500/- – Petition was allowed – Petitioner/husband filed the present criminal revision case against the above order of Trial Court in allowing the mother of the deceased to recover the maintenance – Whether the mother is entitled to the arrears of maintenance accrued till the death of her daughter ? – Held, As per Section 15(1)(c) of the Hindu Succession Act,1955 the mother is entitled to the property of her daughter – Therefore, the Trial Court rightly impleaded the mother of the deceased daughter (wife of the petitioner) in the petition for arrears of maintenance – the criminal revision case is dismissed.

**Ziyavudeen Baqavi Vs. Union of India Rep. By The Inspector of Police
National Investigating Agency Chennai [2023–1–L.W. (Cri.) 698]**

Date of Judgment: 13–04–2023

Indian Penal Code, (1860), Sections 120– B, 124–A, 153–A, 153–B, 505(1)(b), 505(1) (C), 505(2).

Unlawful Activities (Prevention) Act (1967), Section 13(1)(b), section 44 'Protection of Witnesses'.

Precedents/case laws, when to be relied – Discharge petition filed by appellant was dismissed which has given raise to appeal – order of the trial court explicitly relies on Wikipedia for a definition/description to presume that the objective and aim of a particular entity is as set out therein – Wikipedia is based on a crowd–sourced user–generated editing model and therefore is not completely dependable in terms of academic veracity and can promote misleading information –There is no discussion whatsoever about the facts of the case laws that have been relied upon or pressed into service – matter has to be sent to the trial court – If a case law is distinguished on facts, there should be some discussion on how facts are different though it can be terse or epigrammatic but in the case on hand the impugned order is silent on this – Appellant raised the point regarding statement of witnesses not being supplied to the appellant and violation of right to fair trial traceable to Article 21 – A trial court while entering upon a legal drill of examining a discharge plea should go by the record of the case and the documents submitted therewith statements to be supplied – Held, placing of reliance on section 15 of UAPA by the trial court in the impugned order for negating the discharge plea of the appellant is clearly flawed besides being reliance on extraneous material and material.

T. Arunkumar Vs. State of Tamil Nadu Represented by the Inspector of Police, VK Puram the Inspector Police Station, Tirunelveli District [2023 (1) L.W. (Cri.) 736]

Date of Judgment: 24-04-2023

I.P.C., Sections 147, 148, 341, 294(b), 307, 324, 323, 506(2).

Criminal trial/Documents, supply of, right to know

Criminal rules of practice (2019), rule 210, application for copies by third parties, rule 231.

Petitioner is an accused in Crime No.65 of 2023 but is a third party in Crime No.49 of 2023 – purpose and relevancy of the documents that are available in Crime No.49 of 2023 must be satisfactorily explained by the petitioner as to his entitlement.

Documents sought for in the copy application are First Information Report, Remand Report, Arrest Memo, Arrest Card, Medical Examination Report, Footnotes of the judicial magistrate in the case documents and in the case.

Orders on the remand report and FIR can be given to the petitioner – Arrest memo, remand card and medical examination report can be granted to the petitioner, since there is no prohibition – These documents cannot be treated either as privileged or confidential documents.

In the remand report, the learned counsel submit that there will be indication regarding nature and the manner of sustaining injuries in the remand report, so he is entitled for the document.

Petitioner is not entitled for the remand report. Portion of the report which contains nature, manner of injuries found on the body of the accused may be made available to petitioner, rest of the portions not – purpose is to prosecute the grievance of custodial torture – Criminal petition allowed.