

TAMIL NADU STATE JUDICIAL ACADEMY

**** VOL. XVI — PART 10 — OCTOBER 2021 ****

COMPENDIUM OF CASE LAWS



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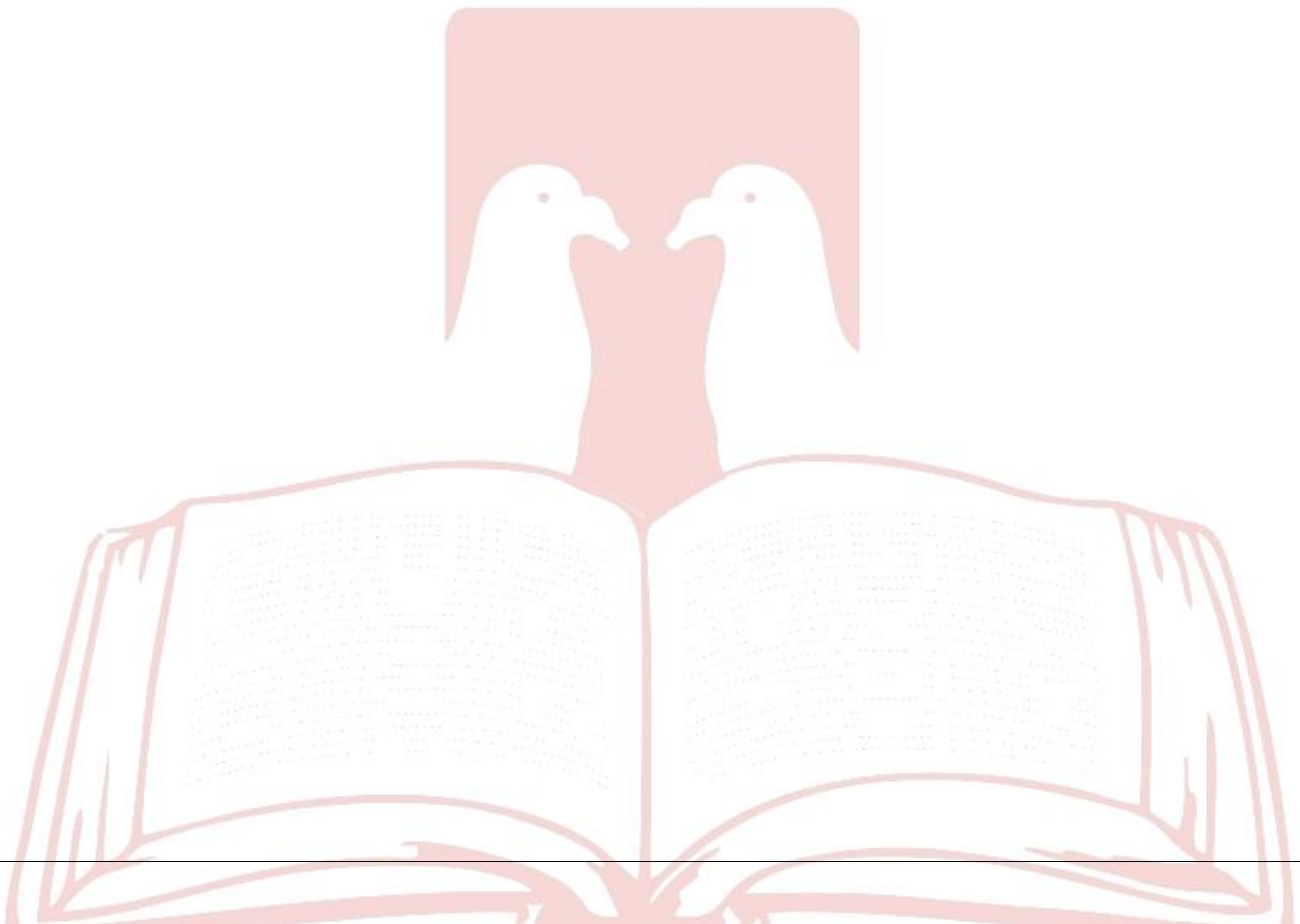


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2	<u>Korukonda Chalapathi Rao and Another Vs. Korukonda Annapurna Sampath Kumar</u>	Civil Appeal No(s). 6141 of 2021 (Arising out of SLP(C) No(s). 25745 of 2016)	01-10-2021
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S. No.	CAUSE TITLE	CASE No.	DATE OF JUDGMENT
1	<u>Ashutosh Ashok Parasrampuriya and Another Vs. Gharrkul Industries Pvt. Ltd. and Others</u>	Criminal Appeal No(s). 1206 and 1207 of 2021	08-10-2021
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S. No.	CAUSE TITLE	CASE No.	DATE OF JUDGMENT
1	<u>D. Komala Vs. S.D. Ramalingam</u>	A.S.No.830 of 2019	05-10-2021
2	<u>Everest Instruments Pvt. Ltd., Vs. Tamil Nadu Co-operative Milk Producers Federation Ltd. & Anr</u>	W.P.No.19071 of 2021	17-09-2021
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S. No.	CAUSE TITLE	CASE No.	DATE OF JUDGMENT
1	<u>Kumar @ Kumaresan Vs. State</u>	CrI.A. No.261 of 2018	08-10-2021
2	<u>Malaisamy Vs. State Rep. by Inspector of Police, Abiramam Police Station</u>	Criminal Appeal (MD) No.376 of 2015	06-10-2021
3	<u>Sekar Vs. State, Rep. by Superintendent of Police, Ranipet District & Ors</u>	CrI.O.P.No.9982 of 2021	05-10-2021
4	<u>Selvakumar Vs. State, Rep. by Inspector of Police, All Women Police Station, Thiruppathur, Sivagangai District</u>	CrI.A.(MD)No.121 of 2016	29-09-2021
5	<u>Visalakshi Vs. The Additional Director General of Police & Ors</u>	W.P. No.17837 of 2021	05-10-2021

SUPREME COURT - CIVIL CASES**K. Karuppuraj Vs. M. Ganesan****Civil Appeal Nos. 6014-6015 of 2021****Date of Judgment: 04-10-2021****Specific Performance – Order XLI Rule 31 of Civil Procedure Code**

The Supreme Court while deciding Civil Appeal discussed the purpose of passing a decree for specific performance and held that, “readiness and willingness has to be established and proved, and that is the relevant consideration for the purpose of passing a decree for specific performance....For the purpose of passing the decree for specific performance, the plaintiff has to prove both the readiness and willingness. Therefore, once it is found on appreciation of evidence that there was no willingness on the part of the plaintiff, the plaintiff is not entitled to the decree for specific performance...” thus allowed the appeal.

See Also

- B.V. Nagesh and Anr. Vs. H.V. Sreenivasa Murthy, (2010) 13 SCC 530 H. Siddiqui (Dead) by LRs. Vs. A. Ramalingam (2011) 4 SCC 240
- State Bank of India and Anr. Vs. Emmsons International Limited and Anr. (2011) 12 SCC 174

Korukonda Chalapathi Rao and Another Vs. Korukonda Annapurna Sampath Kumar

Civil Appeal No(s). 6141 of 2021 (Arising out of SLP(C) No(s). 25745 of 2016)

Date of Judgment: 01-10-2021

Order XIII Rule 3, 4 Code of Civil Procedure, 1908 – Section 49 of the Registration Act – Section 17 Registration Act – Section 17 Transfer of Property Act – Partition Deed – Collateral transaction

The Supreme Court while deciding Civil Appeal on *Kharar nama (unregistered family settlement)* whether a family arrangement is compulsorily registrable held by appreciating the evidence that, “merely admitting the Khararunama containing record of the alleged past transaction, is not to be, however, understood as meaning that if those past transactions require registration, then, the mere admission, in evidence of the Khararunama and the receipt would produce any legal effect on the immovable properties in question... when there has been a partition, then, there may be no scope for invoking the concept of antecedent right as such, which is inapposite after a disruption in the joint family status and what is more an outright partition by metes and bounds...” thus allowed appeal.

Nitaben Dinesh Patel Vs.Dinesh Dahyabhai Patel**Civil Appeal Nos. 5901-5902 of 2021****Date of Judgment: 07-10-2021****Section 23A - Hindu Marriage Act, 1955 - Order VI Rule 17 CPC - Order VIII Rule 6A CPC**

The Supreme Court while deciding Civil Appeal held that, "Order VI Rule 17 CPC provides for amendment of the pleadings. The Court may at any stage of the proceedings allow either party to alter or amend his pleadings (including written statement) in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties. Proviso to Order VI Rule 17 CPC further provides that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that, in spite of due diligence, the party could not have raised the matter before the commencement of the trial. Relying upon the proviso to Order VI Rule 17 CPC,... the restrictions as per the proviso to Order VI Rule 17 CPC shall not be applicable. The proviso to Order VI Rule 17 CPC that no application for amendment shall be allowed after the trial has commenced unless the court comes to the conclusion that in spite of due diligence the party could not have raised the matter before the commencement of trial. Therefore, if some facts have come to the knowledge subsequently and subsequent to the commencement of trial, may be during the course of trial and if it is found that it is necessary for the purpose of determining the real questions in controversy between the parties, on a fair reading of Order VI Rule 17 CPC, such an application for amendment can be allowed even after the trial has commenced..." thus partly allowed the appeal.

SGS India Ltd. Vs. Dolphin International Ltd**Civil Appeal No. 5759 Of 2009****Date of Judgment: 06-10-2021**

National Consumer Disputes Redressal Commission – Onus of proof of deficiency in service – Consumer Protection Act, 1986

The Supreme Court while deciding Civil Appeal held that, “absence of clause in the work order that the specifications should remain the same even at the port of destination is not sustainable for a cause for ‘deficiency in service’... there was no obligation upon the appellant to ensure that the consignment would have the same product specification at the port of destination which were at the port of loading... The onus of proof that there was deficiency in service is on the complainant. If the complainant is able to discharge its initial onus, the burden would then shift to the respondent in the complaint. The rule of evidence before the civil proceedings is that the onus would lie on the person who would fail if no evidence is led by the other side...” thus allowed appeal.

V. Prabhakara Vs. Basavaraj K. (Dead) by Lr. and Another**Civil Appeal Nos. 1376-1377 of 2010****Date of Judgement: 07-10-2021**

Section 3, 17, 68, 114 – Indian Evidence Act, 1872 – Section 17, 18, 27 – Registration Act, 1908 – Order VI – Civil Procedure Code

The Supreme Court while deciding Civil Appeal elaborately discussed, Section 3 of the Indian Evidence Act which defines “a fact”, Section 17 which defines “an admission”, Section 68 which speaks of a requirement of proving the execution of a document required by law to be attested, Section 114 that facilitates a Court to presume existence of certain facts, and the principle governing estoppel as defined under Section 115 of the Indian Evidence Act, Section 17 of the Registration Act which deals with documents of which registration is compulsory, and Order VI of the Code while defining the word “pleading” and held that, “A testamentary court is not a Court of suspicion but that of conscience. It has to consider the relevant materials instead of adopting an ethical reasoning. A mere exclusion of either brother or sister *per se* would not create a suspicion unless it is surrounded by other circumstances creating an inference. In a case where a *testatrix* is accompanied by the sister of the beneficiary of the Will and the said document is attested by the brother, there is no room for any suspicion when both of them have not raised any issue.” Further summarizing that, “the three requisites that should normally be present before an Appellate Court reverses a finding of the trial court, (i) it applies its mind to reasons given by the trial Court; (ii) it has no advantage of seeing and hearing the witnesses; and (iii) it records cogent and convincing reasons for disagreeing with the trial court.” thus allowed the appeal.

See also

- Jagdish Singh v. Madhuri Devi, (2008) 10 SCC 497

SUPREME COURT - CRIMINAL CASES

Ashutosh Ashok Parasrampuriya and Another Vs. Gharrkul Industries Pvt. Ltd. and Others

Criminal Appeal No(s). 1206 and 1207 of 2021

Date of Judgment: 08-10-2021

Negotiable Instruments Act – Companies Act – Director (Executive and Non-Executive) – Signatory to a dishonored Cheque – Magistrate’s power to take cognizance

The Supreme Court while exercising its criminal appellate jurisdiction on an issue whether the role in the capacity of the Director of the defaulter company makes them vicariously liable for the activities of the defaulter Company as defined under Section 141 of the Negotiable Instruments Act, 1881 in an offence chargeable u/s. 138 of the Negotiable Instruments Act, 1881 and whether it could persuade the Magistrate to issue process against the Director taking cognizance on receipt of a complaint? Held that, “a complaint has to be considered on the basis of provisions contained in Sections 138 and 141 of the NI Act read in the light of the powers of a Magistrate referred to in Sections 200 to 204 CrPC which recognize the Magistrate’s discretion to take action in accordance with law....” thus, dismissed appeal by upholding that, the High Court has rightly not interfered in exercise of its jurisdiction under Section 482 CrPC for quashing of the complaint.

See also

- S.M.S. Pharmaceuticals Ltd. Vs. Neeta Bhalla and Another 2005(8) SCC 89

Indrapal Singh & Ors. Vs. State of Uttar Pradesh**Criminal Appeal No. 313-314 of 2020****Date of Judgment: 21-09-2021****Criminal Law – Indian Penal Code – Section 302, 34 - Murderous assault – Common Intention – Appreciation of Evidence**

The Supreme Court while deciding Criminal Appeal, held that, "A cumulative reading of the evidence of PW1 and PW2 along with other material evidence on record would clearly point to the fact that Section 34 of the IPC was rightly invoked along with Section 302 vis-a-vis the accused. This is particularly so on account of there being no contra evidence on behalf of the defense to explain as to why they all went together to the spot with fire-arms and shot at the deceased. On the other hand, the antecedent enmity between the accused and the victims as narrated in detail by PW-1 clearly brings out the fact that there existed a common intention on the part of the accused inasmuch as they went together armed with guns in broad day light to the land where the victims were engaged in irrigation. Also, the manner in which the crime was executed clearly establishes a concerted action on part of the accused. Hence, we find that the contention raised by the learned counsel for the accused-appellants is without substance and in fact, it is contrary to the evidence on record." and thus dismissed the appeals.

Manoj Mishra alias Chhotkau Vs. State of Uttar Pradesh
Criminal Appeal No. 1167 of 2021 (Arising out of SLP (Criminal) No. 7828/2019)

Date of Judgment: 08-10-2021

POCSO – Rape – Criminal Procedure Code – Indian Evidence Act

The Supreme Court while deciding Criminal Appeal held by appreciating the evidence that, “we have taken note of the nature of consideration made by the trial court as also the High Court... In that background, the fact that the appellant had physical relationship with the prosecutrix on more than one occasion and the prosecutrix had not disclosed the same to her parents when it had happened for the first time about four months earlier but was brought to their notice when her pregnancy was noticed will have to be viewed from the stand point as to whether the charges as framed would stand established.... there is no specific indication as to whether the other accused and the appellant had indulged in sexual act along with the appellant herein or the reference is with regard to that they having assisted the appellant in enticing and taking her away on the date of the complaint... To establish common intention on their part in furthering the sexual assault committed by the appellant, there is convincing evidence to that effect.... Though there are minor discrepancies with regard to the statement made under Section 164 Cr.PC and the evidence tendered by the prosecutrix as PW3, the thrust of the allegation has been that the appellant had committed physical contact with her against her will. In such circumstance, the evidence of the prosecutrix and the medical evidence would establish the charge of rape....” thus allowed the appeal in part.

Nasib Singh Vs. State of Punjab**Criminal Appeal Nos. 1051-1054 of 2021****Date of Judgment: 08-10-2021****Section 386 – Criminal Procedure Code**

The Supreme Court while deciding Criminal Appeal on the issue, whether holding separate trials arising out of two FIRs warrants the direction of the High Court for a *de novo* trial, held that, the power to direct re-trial under Section 386, emphasized that, retrial would not be ordered unless the Appellate Court is satisfied that, the conditions mentioned herewith in this judgment is present. The Court illustratively gave a detailed checklist holding that "...An order of retrial wipes out from the record the earlier proceeding and exposes the present accused to another trial. It is for that reason that the court has affirmed the principle that a retrial cannot be ordered merely on the ground that the prosecution did not produce proper evidence and did not know how prove their case", and thus allowed the appeal.

See also

- Ukha Kolhe v. State of Maharashtra (1964) 1 SCR 926

Union of India Vs. Md. Nawaz Khan**Criminal Appeal No. 1043 of 2021 (Arising out of SLP (Cri.) No.1771 of 2021)****Date of Judgment: 22-09-2021****Sections 8, 21, 27A, 29 – Narcotic Drugs and Psychotropic Substances Act 1985**

The Supreme Court while deciding Criminal Appeal on the issue whether, [1] absence of recovery of the contraband from the possession of the respondent and [2] the wrong name in the endorsement of translation of the statement under Section 67 of the NDPS Act, held that, "the absence of possession of the contraband on the person of the respondent by the High Court in the impugned order does not absolve it of the level of scrutiny required under Section 37(1)(b)(ii) of the NDPS Act." The Supreme Court appreciating the evidence reiterated that, "a confessional statement made under Section 67 of the NDPS Act will not be admissible in evidence." Further, the Supreme Court held that, "absence of recovery of contraband from possession of accused by itself cannot be a ground to grant bail" and thus allowed the appeal.

See also

- Tofan Singh v. State of Tamil Nadu (2009) 2 SCC 624

HIGH COURT - CIVIL CASES
D. Komala Vs. S.D. Ramalingam
A.S.No.830 of 2019
Date of Judgment: 05-10-2021

Marking of document — Order XVIII Rules 4 and 5, CPC

The Hon'ble High Court decided on an Appeal Suit arising from a suit for recovery of money. The Court observed that Rules 4(1) and 4(2) of Order XVIII have to be read in tandem with Rule 5. The Court further observed that the *Proviso* to Rule 4(1) should be read together with Order XIII Rule 4, which prescribes the procedure for marking endorsement on the documents admitted in evidence. The Court referred to the decision of the Supreme Court in *Ameer Trading Corporation Limited Vs. Shapoorji Data Processing Ltd. [(2004) 1 SCC 702]*, wherein it was held that "Order 18 Rules 4 and 5 are required to be harmoniously construed. Both the provisions are required to be given effect to and as Order XVIII Rule 5 cannot be read as an exception to Order XVIII Rule 4". The Court observed that "there is no quarrel on the proposition that facts can be proved by an affidavit as provided under Order XIX, however, the marking of documents can only be done in the manner provided in the proviso to Rule 4(1) in the presence of the Court", and found that "the documents have been marked without PW1 being put into the witness box. Therefore, the appellant has lost the opportunity of objecting to the marking of Ex.A.1. Therefore, the marking of the documents has not been done as per the procedure contemplated under Order XVIII Rules 4 and 5, CPC". The Court remanded the suit back to the Trial Court with a direction to frame an issue regarding the admissibility of the Loan Confirmation Document and to mark the documents as per the procedure contemplated under the proviso to Order XVIII Rule 4(1) read with Rule 5 of the Code of Civil Procedure, and if the Loan Document is found to be insufficiently stamped to follow the procedure under Section 33 of the Stamp Act. Thus, the Appeal Suit was allowed.

**Everest Instruments Pvt. Ltd., Vs. Tamil Nadu Co-operative Milk Producers
Federation Ltd. & Anr
W.P.No.19071 of 2021**

Date of Judgment: 17-09-2021

Rejection of bid — ambiguity in tender document — essential and ancillary conditions

The Hon'ble High Court dealt with a Writ Petition challenging the rejection of the bid submitted by the Petitioner. The first ground of rejection was that the Petitioner failed to satisfy the criteria of supplying the "same or similar category product". The Court found that there is an ambiguity in the tender document as to what is meant by similar product. Thus, relying on the decision in *Reliance Energy Ltd. Vs. Maharashtra State Road Development Corporation Ltd. & Ors. [(2007) 8 SCC 1]*, the Court found that the first ground of disqualification is unsustainable. On the second ground, the 1st Respondent's contention was that the Petitioner had submitted that turnover criteria of the subsidiary company, whereas it is the holding company which is the Original Equipment Manufacturer. The Court referred to the decisions of the Supreme Court* wherein it was held that, a tender can be classified to contain the essential and ancillary conditions. If it is an ancillary condition, there is a scope for deviation/relaxation since it will not cause prejudice or injustice to the other bidders. The Court found that the second ground pertains to an ancillary condition, and that thus the second ground of disqualification is unsustainable. On the third ground, the Court observed that the bid document does not clarify as to what should be the requirements for submitting the calibration certificate. The Court thus found that the third ground of disqualification is unsustainable. Thus, the Court quashed the rejection comment issued by the 1st Respondent, and directed the 1st Respondent to proceed with the technical evaluation of the bid after clarifying the terms of the tender document.

See Also

- Poddar Steel Corporation vs. Ganesh Engineering Works, (1991) 3 SCC 273
- Pace Digitek Infra Pvt. Ltd. v. Tamil Nadu Fibernet Corporation Ltd. [2021 SCC OnLine Mad 900]

Hindustan Unilever Limited & Ors. Vs. S. Shanthi & Ors.**O.S.A No.230 of 2019****Date of Judgment: 23-09-2021****Section 13(1), Commercial Courts Act, 2015 — Issue of Appealability**

The Hon'ble High Court decided an Original Side Appeal, on the issue of appealability under the Commercial Courts Act, 2015. The Court comprehensively discussed the Commercial Courts Act, 2015 in detail with illustrative case laws and held that, "The underlying purpose of the said Act is not only to expedite the resolution of commercial claims, but also to project a much-needed reform in the system to attract foreign investment in this country, particularly to those wary of the tardy judicial process ... However banal or clichéd it may sound; it bears repetition that an appeal is a creature of the statute. Judicial precedents – Judge-made laws – do not confer any right of appeal; only statutes do. Judicial precedents merely interpret statutes to ascertain whether there is a right of appeal in a particular situation. As a statute may confer a right, a subsequent statute may abridge the same or even take away the right. The said Act [Commercial Courts Act, 2015] thereof must be seen in such light... It is, thus, that the merits of the matters need to be assessed, particularly as to whether there is any scope for interfering with the relevant orders impugned herein providing for the return of the plaints.." thus dismissed the Appeal.

M/s. India Tourism Development Corporation Ltd. Vs. M.R. Junaitha Begum**C.R.P. (NPD) Nos.678 and 518 of 2019****Date of Judgment: 17-09-2021**

Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 — fixation of fair rent

The Hon'ble High Court decided on a Civil Revision Petition filed by a tenant challenging the fixation of fair rent.

The Court relied on the decision in *Dovo Tax Company Vs. T.R. Ramanath [(1986) 99 LW 269]*, and rejected the contention of the Petitioner that the Rent Control Appellate Authority cannot fix the fair rent more than what is claimed in the petition, and observed that "Fair rent was fixed not for the landlord or tenant, but for the building in question in accordance with law and in consonance with the provisions of the Act."

The Court found that the decision of the Rent Control Authority, to adopt the market value on the basis of the certified copy of the Sale Deed, is in consonance with judicial precedents*, which have held that when the genuineness of the document is not disputed, the documents can be relied on, even without examining the parties for determining the market value.

The Court found that the deduction of the value of the building by the Rent Control Appellate Authority for arriving at the value of the land, is correct, as there is no documentary proof to show that the value of the land is higher.

The Court upheld the findings of the Rent Control Appellate Authority confirming the findings of the Rent Controller, and thus, dismissed the Civil Revision Petitions.

See Also

- Sakthi & Co. Vs. Shree Desigachary [2006 (2) CTC 433]
- Susainathan Vs. T. Vijayan [CDJ 2001 MHC 1088]
- V. Krishnamoorthy Vs. M.R. Lalitha [CDJ 2007 MHC 4037]

Sun Pharma Laboratories Ltd. Vs. D.D. Pharmaceuticals Pvt. Ltd.**C.S. Nos.687, 703 & 704 of 2014****Date of Judgment: 23-09-2021**

Infringement of registered trademark — deceptive similarity — *bona fides* of subsequent user

The Hon'ble High Court in deciding a Civil Suit concerning infringement of trademarks, affirmed its jurisdiction by observing that, although the registered office of the Plaintiff is in another state, it has one of its offices within the jurisdiction of the Court and also sells its products within the jurisdiction of the Court, which is recognised in *Mankind Pharma Ltd. Vs. Sun Pharma Laboratories Ltd. [2016 (4) LW 760]* and *Sun Pharmaceuticals Industries Ltd. & Anr. Vs. Nirma Ltd. & Anr. [CS No.735 of 2011]*. Upon comparing the marks in the manner suggested by the Supreme Court in *Parley Products (P) Ltd v. J.P. & Co., Mysore [1972 (1) SCC 618]*, the Court found a great likelihood of deception in respect of the marks. Further, the Court supported a lesser threshold for infringement of trademarks with respect to medicinal products, in line with the decision of the Supreme Court in *Cadila Health Care Ltd. Vs. Cadila Pharmaceuticals Ltd. [AIR 2001 SC 1952]*, and thus decided the issue of infringement in favour of the Plaintiff. Further, the Court held that "the names adopted by the defendant, though based on the names of the active pharmaceutical ingredient, there is a clear lack of *bona fides* on the part of the defendant in adopting almost a similar name which would definitely cause confusion among the general public or the consumer", and decided the issue of *bona fides* against the Plaintiff. The Court granted the Plaintiff the relief of permanent injunction against the Defendant, and rejected the claim for liquidated damages as there was no evidence that there was a reduction in sale of the Plaintiff's products due to the confusion caused by the sale of the defendant's products. The Court also rejected the relief of accounting, as there was no evidence to show that the Plaintiff's turnover suffered due to introduction of the Defendant's product in the market.

HIGH COURT – CRIMINAL CASES**Kumar @ Kumaresan Vs. State****Crl.A. No.261 of 2018****Date of Judgment: 08-10-2021**

Sections 367, 346, 324, 377 IPC and Section 6 of Protection of Children from sexual offences Act – accused pleaded not guilty – trial Court convicted the accused.

The Hon'ble High Court dealt with a Criminal Appeal praying for a direction to set aside the judgment of conviction by the Trial Court. The Hon'ble High Court, had to decide on the issue, Whether the conviction of the accused for the offences on the basis of the materials available on the record was fair and proper. The Hon'ble High Court considering various factors such as, medical reports of both the victim and the accused and oral testimony of the victim which is of a stellar quality, since there is absence of any motive against the accused, relied on the testimony and also observed that, once the Court is convinced that the evidence of the victim is acceptable it is not always necessary to look for corroborative evidence. The Court upheld the judgement of conviction and dismissed the Criminal Appeal and also awarded compensation to the victim as per Tamil Nadu Child Victim Compensation Fund under the Protection of Children from Sexual Offences Act, 2012.

See Also

- State of H.P. v. Sanjay Kumar, [(2017) 2 SCC 51]
- Bhupinder Sharma v. State of Himachal Pradesh [(2003) 8 SCC 551]

Malaisamy Vs. State Rep. by Inspector of Police, Abiramam Police Station**Criminal Appeal (MD) No.376 of 2015****Date of Judgment: 06-10-2021**

Sections 376 and 417 I.P.C. - Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002 – Sexual intercourse on false promise of marriage – DNA of child proves accused is the father.

The Hon'ble High Court dealt with a Criminal Appeal against the conviction and sentence of the trial Court. The Petitioner (accused) in this case has denied the charges and aggrieved by the conviction and sentence has approached the Hon'ble High Court. It was contended by the Petitioner that; both the Petitioner and the Victim were adults at the time of the incident and the said incident was consensual and the defence contended that the evidence given by the prosecution witnesses was sufficient to hold that the accused had committed the offences under Sections 417 and 376 I.P.C. On perusal of the facts and averments, the High Court in this case observed that, the alleged offence committed by the accused (Petitioner) is consensual one and therefore, the accused need not be convicted under Section 376 I.P.C. Further it was held by the Court that, the accused had to deposit a sum of Rs.5,00,000/- for the minor child as compensation within a period of three months after undergoing the term of imprisonment, since it was proved that the accused is the biological father of the minor child and the victim child is also entitled to receive benefits from the accused under Civil Law.

See also:

- Madan @ Madankumar vs. State, Rep. by the Inspector of Police, All Women Police Station, Manamadurai, Sivagangai District
- Pappu @ Gnanasekaran vs. State, Rep. by the Inspector of Police, Pallavaram Police Station, Chennai
- Emarajan Vs. The State, Rep. by the Inspector of Police, V.K.Puram Police Station, Tirunelveli District

Sekar Vs. State, Rep. by Superintendent of Police, Ranipet District & Ors**Crl.O.P.No.9982 of 2021****Date of Judgment: 05-10-2021**

Petition seeking transfer of investigation by police to CBCID – de-facto complainant signed the without knowing contents of the complaint – no justifying reason is found for transfer of investigation

The Hon'ble High Court had to decide on a Criminal Original Petition seeking of transfer of investigation of case from respondent police to CBCID. The contentions in this case are that the complaint was written by the Police and the grandfather (*de-facto* complainant) of the deceased had signed it without knowing its contents and, that the investigation by the police was not conducted properly. The contention of the petitioners that the *de-facto* complainant did not know the contents was negated by one Mannu, the neighbour of the petitioner. Mannu in his statement has categorically stated that he wrote the complaint as stated by the *de-facto* complainant. As far as the contentions about the investigation not been conducted properly by the police, the Court on perusal of facts and evidences opined that, no justifying reason is found for transfer of investigation and the investigation conducted so far by the respondent police was proper and the apprehension of the petitioner was misplaced. In conclusion the Court, dismissed the Criminal Original Petition.

**Selvakumar Vs. State, Rep. by Inspector of Police, All Women Police Station,
Thiruppathur, Sivagangai District**

Cri.A.(MD)No.121 of 2016

Date of Judgment: 29-09-2021

Compounding of the offence under Section 417 of I.P.C

The Hon'ble High Court dealt with a Criminal Appeal filed under Section 374 Code of Criminal Procedure to set aside conviction imposed on the appellant and that the offence would be compounded. On an enquiry of both parties by the Court, the Court was satisfied that the parties have come to an amicable settlement between themselves. Further, a joint compromise memo to the effect was filed before the Court and the Court granted permission to compound the offence under Section 417 of I.P.C., for which, the appellant stands convicted. It was held by the Court that, "in view of the compounding of the offence, the accused is acquitted of the offence levelled against him".

Visalakshi Vs. The Additional Director General of Police & Ors**W.P. No.17837 of 2021****Date of Judgment: 05-10-2021**

Writ of Mandamus – grant of leave for prisoner – prisoner facing prosecution in another case

The Hon'ble High Court decided a Writ of Mandamus filed under 226 of the Constitution of India to grant one-month ordinary leave for a convict prisoner. It was observed that, convict prisoner in this case was also facing prosecution in another case. While considering Writ for grant of causal leave to the prisoner the Court invoked the Rules 3 and 35 of the Sentence Suspension Rules. It was observed by the Court that, as per Rule 3; Leave is not a right - Leave cannot be claimed as a matter of right, it is a concession granted to the prisoner, and as per Rule. 35; Pending cases - no prisoner on whom a case is pending trial shall be granted leave. In fine, the Court dismissed the Writ Petition.

See also:

- S. Santhosam vs. State and 2 others
