

TAMIL NADU STATE JUDICIAL ACADEMY

**** VOL. XX— PART 9 — SEPTEMBER 2025****

IMPORTANT CASE LAWS



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SUPREME COURT – CIVIL CASES

Tahir V. Isani Vs. Madan Waman Chodankar, (Since Deceased) Now Through His Legal Representatives & Ors. [Special Leave Petition (Civil) No. 15167 of 2022]

Date of Judgment: 06.05.2025

Order XXI, Rule 102 of the Code of Civil Procedure, 1908 – A *transferee pendente lite* is generally barred from resisting execution under Order XXI Rule 102 of the Civil of Procedure Code, 1908 but the bar applies only where the transferee derives title from the judgment-debtor – A bona fide purchaser who acquires property from a third party not involved in the decree proceedings is not hit by Rule 102 and can raise objections under Order XXI Rules 97 and 101 CPC – Delay or mala fide attempts to discontinue enquiry proceedings after years cannot be permitted, as it defeats justice and finality – The Executing Court is duty-bound to enquire into objections of a bona fide purchaser to prevent collusive or unfair decrees from being enforced.

The original owner, Mrs. Misquita, leased a portion of her property in 1977 to respondent no.1 (tenant). Later, he entered a partnership with the Maliks. In 1988, the entire property was sold to M/s Rizvi Estate & Hotels Pvt. Ltd. with an arrangement involving the Maliks. Respondent no.1 sued for injunction and also faced eviction proceedings alleging sub-letting. In 2007, Rizvi Estate sold the property to the appellant, Tahir V. Isani. The Maliks executed a surrender deed in his favour. Meanwhile, in 1996, respondent no.1 filed a suit against the Maliks for dissolution of partnership and ejectment, which was decreed in 2008. Respondent no.1 sought execution of that decree. The appellant, as subsequent purchaser, filed objections under Order XXI Rules 97 and 101 CPC in 2009. An enquiry commenced. In 2019, after a decade, the decree-holder's heirs sought discontinuation of the enquiry on the basis of Rule 102 CPC (doctrine of lis pendens). The Executing Court rejected this plea in 2021. The High Court discontinued the enquiry while allowing the writ petition of

decree-holder, applying Rule 102, and held that appellant was a transferee pendente lite.

The Hon'ble Supreme Court examined the scheme of Order XXI Rules 97–102 CPC alongside Section 52 of the Transfer of Property Act. It reiterated that Rule 102 intends to prevent endless litigation by *transferees pendente lite*, who buy properties from judgment-debtors during pending suits. Such transferees cannot resist execution, as they step into the shoes of the judgment-debtor and are bound by the outcome of the suit. The rule embodies the doctrine of *lis pendens* to ensure finality of litigation. However, the Court clarified that Rule 102 applies only when the transferee derives title from the judgment-debtor. If a purchaser traces title from a third party who was not a party to the suit or decree, the bar of Rule 102 does not apply. In such cases, the purchaser can legitimately raise objections under Order XXI Rules 97 and 101 CPC. The Court cited *Usha Sinha v. Dina Ram* reported in (2008) 7 SCC 144 and *Jini Dhanrajgir and another v. Shibu Mathew and another* reported in (2023) 20 SCC 76 Mathew to emphasize that courts must distinguish between mala fide transferees of judgment-debtors and bona fide purchasers from independent owners.

Applying this principle, the Hon'ble Supreme Court held that the appellant bought the property in 2007 from Rizvi Estate, which had acquired ownership in 1988 from the original owner. Rizvi Estate was not a party to the suit of 1996 between respondent no.1 and the Maliks. Thus, the appellant's title did not flow from the judgment-debtor (Maliks). Consequently, he could not be branded as a *transferee pendente lite* under Rule 102. The High Court erred in closing the enquiry by wrongly applying Rule 102, ignoring the appellant's independent ownership claim. The Supreme Court also noted the delay and mala fide nature of the decree-holder's 2019 application, filed ten years after objections were raised. The decree-holder had participated in the enquiry for years before seeking to discontinue it. Such conduct was untenable. Justice demanded that the appellant's objections be adjudicated fully. Therefore, the Supreme Court while allowing the appeal set aside the High Court's order, restored the Executing

Court's decision, and directed continuation of the enquiry under Rules 97 and 101 CPC.

**Operation Asha Vs. Shelly Batra and Ors. [Civil Appeal No. 10048 of 2025
(2025 INSC 932)]**

Date of Judgment: 05.08.2025

Scope of Section 92 of the Code of Civil Procedure, 1908 – A suit is maintainable only when (i) a public charitable/religious trust exists, (ii) breach of trust/mismanagement is alleged, and (iii) reliefs sought fall within Section 92 – Society as Constructive Trust – A society registered under the Societies Registration Act can be treated as a constructive trust where its property and funds, sourced from public donations, are held for public charitable purposes – Entrustment & Fiduciary Duty – Formal entrustment is unnecessary; the nature of the institution and governing documents themselves impose fiduciary obligations on its office-bearers – Reliefs under Section 92 – Reliefs such as removal of members, settlement of a scheme, and rendition of accounts fall squarely within Section 92(1)(d) & (h), even if personal grievances also exist - Leave Stage Approach – At the leave stage, allegations in the plaint must be taken at face value; presence of personal elements does not defeat maintainability if substantive public trust issues are raised.

Operation ASHA, a registered society providing healthcare to the underprivileged, faced allegations by its co-founder and her mother of gross financial impropriety, mismanagement, and breach of by-laws by other board members, leading them to file a suit under Section 92 CPC seeking declarations, injunctions, and scheme settlement. The Delhi High Court Single Judge granted leave under Section 92 CPC, holding that the society served a public charitable purpose, donations were “entrusted” making it a constructive trust, the plaintiffs were “persons having interest,” and the reliefs sought fell within Section 92. The Division Bench upheld the Single Judge’s order, agreeing that the society’s nature, its governance provisions, and the vested donations satisfied Section 92 conditions, and that key reliefs sought were within the statutory scope despite some personal grievance.

The Supreme Court examined the scope and object of Section 92 CPC as a safeguard for public charitable trusts, reiterating that maintainability requires (i) a public charitable/religious trust, (ii) breach of trust or need for court directions, and (iii) reliefs within the provision; it held that a society registered under the Societies Registration Act can be treated as a “constructive trust” if its property and funds, sourced from public donations for public welfare, are held for charitable purposes, and that formal entrustment is unnecessary where the nature of the institution and its governing documents clearly impose a fiduciary obligation; analysing the Memorandum and Articles of Association, the Court found that Operation ASHA’s objectives were purely charitable, its funds were to be applied solely to those purposes, and its Executive Committee held the assets for public benefit, thus satisfying the first condition; relying on audit reports and allegations in the plaint, it found that the second condition was met since breaches and mismanagement were alleged requiring court intervention; it further held that the reliefs sought—particularly regarding removal of members, settlement of a scheme, and rendition of accounts—fell squarely within Section 92(1)(d) and (h), satisfying the third condition; rejecting the appellant’s argument that the suit was a cloak for personal grievances, the Court stressed that at the leave stage the plaint allegations must be taken at face value and that personal aspects do not vitiate maintainability when substantive public trust issues exist; consequently, it concluded that all statutory ingredients were fulfilled, the High Court committed no error in granting leave, and dismissed the appeal.

Sanjit Singh Salwan & Ors. Vs. Sardar Inderjit Singh Salwan & Ors.
[Special Leave Petition (Civil) No. 29398 of 2024 (2025 INSC 988)]

Date of Judgment: 14.08.2025

Section 92 of the Code of Civil Procedure, 1908 – The Hon'ble Supreme Court held that once parties have consciously accepted an arbitral award and had their appeal disposed of on that basis, they are estopped from later disputing its validity – The doctrine of approbate and reprobate and estoppel by conduct/election applies – A party cannot accept the benefit of an order or decree and then turn around to challenge its foundation – Even if the award dealt with matters covered by Section 92 CPC (trust matters, ordinarily non-arbitrable), the respondents' conduct in accepting the award and securing a compromise decree bars them from later asserting nullity – Justice requires that the appellants, having altered their position in reliance on the compromise, cannot be left without remedy.

The dispute was between two groups of trustees of *Guru Tegh Bahadur Charitable Trust*. Respondents filed a suit for injunction, restraining appellants from entering the Trust's school and interfering in management. The Trial Court rejected the plaint under Order VII Rule 11 CPC, holding that the suit was barred under Section 92 CPC. On appeal before the District Court, the parties agreed to arbitration. A sole arbitrator passed an award on 30.12.2022, arranging management of the Trust. On 02.01.2023, parties filed a joint compromise application accepting the award. The appeal was disposed of on 27.01.2023 in terms of the award, forming part of the decree. This decree attained finality. Later, appellants filed execution proceedings but withdrew them to seek interim measures under Section 9 of the Arbitration and Conciliation Act, 1996. The Commercial Court rejected the plea, holding the award a nullity as trust disputes were non-arbitrable. The Hon'ble High Court affirmed the order passed by the Trial Court.

The Hon'ble Supreme Court first emphasized that the respondents themselves had consciously pleaded that their original suit was not barred by Section 92 CPC and thereafter agreed to arbitration. They jointly sought disposal of their appeal on the basis of the arbitral award and accepted the compromise decree. Having taken such a stand and derived benefit from it, they could not later approbate and reprobate by questioning its validity. The Court invoked the doctrine of election and estoppel by conduct, citing *Mumbai International Airport Private Ltd. v. Golden Chariot Airport and Anr.*, reported in (2010) 10 SCC 422 and *R.N. Gosain v. Yashpal Dhir* reported in *SLP(C) No. 4325 of 1992 decided on 23.10.1992*. On the plea that there could be no estoppel against law, the Court noted that while questions of law cannot ordinarily be shut out by estoppel, the present case was more about conduct. The respondents' own representation and acceptance of facts induced the appellants to alter their position, including withdrawing criminal proceedings and parting with money under the compromise. In such circumstances, even if the award dealt with non-arbitrable matters, the respondents were barred from denying its binding nature. The Court relied on *Dhiyan Singh v. Jugal Kishore* reported in *AIR 1952 SC 145*, to hold that acceptance of an award and acting upon it creates binding estoppel. The Court further found fault with the Commercial Court and High Court for ignoring the legal effect of the compromise decree.

The decree had never been challenged and had attained finality. By rejecting the appellants' plea merely on the ground of nullity of award, both courts overlooked the equitable considerations flowing from the compromise decree. Allowing such conduct would enable respondents to blow hot and cold — first securing a decree on compromise and then repudiating it to defeat appellants' rights. Finally, the Supreme Court held that grave injustice would be caused if the appellants were left without remedy after having acted on the compromise and while allowing the appeal set-aside, the orders of the Commercial Court and High Court. Further, the appellants were given liberty to revive their earlier execution proceedings, which would be decided on merits in accordance with law.

Shivamma (Dead) by LRs. Vs. Karnataka Housing Board & Ors. [Special Leave Petition (C) No. 10704 of 2019 (2025 INSC 1104)]

Date of Judgment: 12.09.2025

Section 5 of the Limitation Act

The civil appeal has been filed by the appellant challenging the judgment and order of the High Court, condoning the delay of 3966 days. The brief facts of the case is that the land, Survey No. 56/A, was originally owned by the appellant's father. After his death, the appellant became the absolute owner of a 4-acre parcel (land in question) via a compromise decree in 1989. However, the Karnataka Housing Board (KHB) had already taken possession of this land around 1979. The appellant's suit for title and possession was dismissed by the Trial Court, but decreed by the First Appellate Court on January 3, 2006, which granted compensation instead of possession. Due to KHB's inaction, the appellant initiated execution proceedings in 2011. KHB finally filed a Regular Second Appeal with the High Court on February 14, 2017, seeking condonation of a massive 3966-day delay. The High Court condoned the delay, leading to the present appeal before the Supreme Court.

The appellant contended that KHB had failed to show any sufficient cause for the long delay, arguing that the explanation citing negligence and a pedantic approach by its officials amounted to sheer lethargy and should not be condoned. The appellant further contended that no convincing reason was provided, especially for the prolonged inaction after KHB received notice in the execution proceedings as early as 2011.

In response, the respondent submitted that appellate courts should not interfere with the High Court's discretionary finding of sufficient cause unless it was manifestly erroneous. The respondent maintained that substantial justice should prevail over technicalities, particularly where public interest was involved, as the decree awarded compensation for land KHB had never acquired. The respondent also contended that negligence by individual officers should not be attributed to the State, noting that disciplinary measures had been taken against those responsible.

The Supreme Court undertook a comprehensive analysis of the judicial interpretation of "sufficient cause" under Section 5 of the Limitation Act. The Court definitively held that the expression "within such period" in Section 5 requires the party seeking condonation to explain the existence of "sufficient cause" for the entire duration from when the clock of limitation began to tick, up until the date of actual filing, thereby rejecting the view that only the delay period post-limitation needs explanation. The Court emphasized that State entities are not entitled to preferential treatment or "largesse for State lethargy and leisure". Reliance on bureaucratic red tape or administrative inefficiency as a cause for delay is now ordinarily viewed as an "excuse" rather than a genuine "explanation". Applying these principles, the Court found that KHB failed to explain the delay, noting that the move to initiate disciplinary action against the Executive Engineer only one month before filing the condonation application suggested a tactic to ingratiate itself before the High Court. The Court observed that the High Court erred gravely by engaging in merit-hunting to justify condonation based on the supposed merits of KHB's case, which is erroneous and ex facie bad in law. The Supreme Court concluded that condoning a delay of 3966 days made a mockery of justice and deprived the appellant of the fruits of a decree in a litigation spanning 36 years. While allowing the appeal, the Supreme Court set aside the impugned judgment and order of the High Court, condoning the delay.

**Rajul Manoj Shah Alias Rajeshwari Rasiklal Sheth Vs. Kiranbhai
Shakrabhai Patel & Anr. [SLP (C) No. 5635 OF 2023 (2025 INSC 1109)]**

Date of Judgment: 12.09.2025

Order 8 Rule 6-A, CPC

The Civil Appeal has been filed by the appellant/plaintiff, challenging the order and judgment passed by the High Court, which reversed the judgment of the Trial Court and permitted the Respondent No. 1 /Defendant No. 2 to file a counter-claim against Respondent No. 2/ Defendant No. 1.

Originally the plaintiff filed a suit in 2012 seeking declaration and injunction over a bungalow jointly owned with her sister-in-law (Respondent No. 2) after learning that she had agreed to sell part of her undivided share to Respondent No. 1 through an agreement dated 21.10.2011. The plaintiff claimed the agreement was void without her consent. After Respondent No. 2's death in 2013, the High Court, by consent, substituted the Nazir of the City Civil Court as Respondent No. 2. On 26.07.2021, Respondent No. 1 filed an application to amend his written statement and include a counter-claim, seeking enforcement of the 2011 sale agreement and partition of the property. The Trial Court dismissed the application, citing undue delay and the impropriety of raising a counter-claim against a co-defendant. However, the High Court allowed the amendment under its supervisory jurisdiction, prompting the appellant to approach the Supreme Court.

The Appellant made two primary submissions. First, a counter-claim cannot be entertained after the issues are formulated in the suit, relying on the decision in *Ashok Kumar Kalra v. Wing CDR. Surendra Agnihotri*. Second, a counter-claim cannot be made against a co-defendant, citing *Rohit Singh & Ors. v. State of Bihar*.

On the other hand, the Respondent No. 1 contended that his counter-claim sought two substantive reliefs: specific performance and partition, meaning it was not directed *solely* against a co-defendant, as the appellant would need to be impleaded in an independent suit for these reliefs. The ultimate relief was the declaration of co-

ownership of the deceased Respondent No. 2 and a consequent decree of specific performance against that ownership.

The Supreme Court examined the two issues: 1) the maintainability of a counter-claim against a co-defendant and 2) the timing of filing the counter-claim after issues were framed.

Regarding maintainability, referring to the precedent set in *Rohit Singh* and reiterated in *Damodhar Narayan Sawale*, the Court observed that a counter-claim must necessarily be directed against the plaintiff in the suit, even if it incidentally claims relief against co-defendants. A counter-claim directed solely against the co-defendants cannot be maintained. In the instant case, the relief of specific performance sought by Respondent No. 1 was directed solely against the deceased original Respondent No. 2 and not against the appellant/plaintiff. The attempt to also claim partition failed for the same reason, as Respondent No. 1 must first establish a right of claim over the property against the estate of Respondent No. 2 before setting up a counter-claim against the plaintiff.

Regarding the timing, the Court noted that issues were framed on 12.02.2019, and the counter-claim application was filed almost two years later on 26.07.2021. The Court relied on *Ashok Kumar Kalra*, which held that while Order 8 Rule 6-A does not provide an explicit time limit for filing Counter-claim, the Court must adopt a balanced approach. Crucially, the Court reiterated the principle that a defendant cannot be permitted to file a counter-claim after the issues are framed and after the suit has proceeded substantially, as this defeats the cause of speedy justice. Furthermore, the Court noted that the relief of specific performance sought for with respect to the 2011 agreement may be barred by Limitation. The Supreme Court while allowing the appeal, set aside the order and judgment passed by the High Court.

SUPREME COURT – CRIMINAL CASES

Kallu Nat Alias Mayank Kumar Nagar Vs.State of U.P. And Anr.
[Special Leave Petition (Criminal) No.10010 of 2025 (2025 INSC 930)]

Date of Judgment: 05.08.2025

Section 193 of the Code of Criminal Procedure, 1973 – Upon committal by the Magistrate, the Court of Sessions is empowered to take cognizance of the whole of the incident constituting the offence – The Court of Sessions is thus invested with the complete jurisdiction to summon any individual accused of the crime – The Sessions Judge is entitled to issue summons under Section 193 of the Code upon the case being committed to him by the Magistrate – The language of Section 193 of the Code very clearly indicates that once the case is committed to the Court of Session by the Magistrate, the Court of Session assumes original jurisdiction and all that goes with the assumption of such jurisdiction.

The 2nd respondent is the husband of the victim (deceased). The victim went missing on 21.11.2018. On 24.11.2018 the dead body of the victim was recovered somewhere from the bushes lying on the outskirts of the village. In such circumstances the first informant i.e. the husband had lodged a First Information Report and in the FIR, one Ajay was mentioned as the suspect. The first informant alleged that Ajay had an extra-marital affair with his wife (victim) and was last seen with the victim and accordingly he alleged that Ajay might have been involved in the murder of his wife. In the course of the investigation, the name of the petitioner too surfaced. Later the investigation came to be transferred to the Crime Branch. The name of the present petitioner was dropped from the chargesheet. The trial court/session court in exercise of powers under Section 193 of the Cr.P.C ordered that the petitioner-herein shall be summoned as an accused in connection with the crime referred to above and be put to trial along with Ajay. Further, the trial court reached the conclusion that there was prima facie material indicating involvement of the petitioner-herein in the alleged crime and he should be asked to face the trial along with the co-accused. The order was challenged

before the High Court by way of criminal revision application. The High Court rejected the criminal revision application. Hence the present appeal.

The first procedural step that is ordinarily contemplated to be undertaken by a Court of Session, under the Code, after the committal of the case by the Magistrate under Section 209, is to be apprised itself as well as the accused about the charges that are brought against such accused. In a case where the offence is exclusively triable by the Court of Session, as it is manifest from a reading of Section(s) 209, 226 and 227 of the Code, only a Court of Sessions is empowered to discharge an accused, it must be the one who must take cognizance of the offence, and not the Magistrate, whose role is only confined to committing the case to the Court of Session. Further, cognizance of an offence is taken when the judicial authority who has applied its mind, comes to the finding that it is necessary to initiate proceedings. The act of "taking cognizance" signifies judicial application of mind on the allegations purported to be levelled. Under Section 228(1)(a), the Court of Session is only empowered to transfer the case back to the Magistrate, with the discretion of framing the charge first, if the offence is not exclusively triable by it. A Sessions Court cannot go into the question, whether there is any offence or not, worth initiating proceedings under the Code. The Court of Session is not empowered to send back the case to the Magistrate for relooking into whether cognizance should be taken or not. A combined reading of Section(s) 226, 227 and 228, clearly outline, that after the case is committed to the Court of Session, its role is only limited for the purpose of deciding whether the case is a fit one for commencing trial against the accused, and whether such offence should be tried by it or by the Magistrate. For offences which are exclusively triable by the Court of Session, the role that the Court of Session is expected to play in terms of Section(s) 226 to 228, after the case has been committed to it, is not only altogether different from the one that a Magistrate is required to play but also one concerned only with the stage "post-cognizance of offence" in respect of the case committed to it. On committal by the Magistrate, the Court of Sessions is empowered to take cognizance of the whole of the incident constituting the offence and thus invested with the complete jurisdiction to summon any individual accused of the crime. With

these observations, the Supreme Court dismissed the petition and affirmed the High Court's order, which had upheld the session court's decision to summon the petitioner as an accused to face trial.

**Narayan Yadav Vs. State of Chhattisgarh [Special Leave Petition
(Criminal) No. 10595 of 2025 (2025 INSC 927)]**

Date of Judgment: 05.08.2025

Section 145 and 157 of the Evidence Act, 1872 – Confessional FIR is not Admissible in Evidence – In a criminal trial confessional FIR cannot be used to corroborate or contradict as long as the maker of the statement is an accused in the case, unless he offers himself to be examined as a witness.

The appellant (accused) himself lodged a First Information Report (FIR) dated 27.09.2019 with Korba Kotwali Police Station, District Korba, for the offence punishable under Section 302 of the IPC. The Trial Court, upon overall appreciation of both oral as well as the documentary evidence on record, reached the conclusion that the prosecution had proved its case beyond reasonable doubt, and accordingly, it held the appellant guilty of the offence of murder and sentenced him to undergo life imprisonment. The High Court partly allowed the appeal and altered the conviction of the appellant from Section 302 of the IPC to Section 304 Part I of the IPC, giving benefit of Exception 4 to Section 300 of the IPC.

A statement in an FIR can normally be used only to contradict its maker as provided in Section 145 of the Indian Evidence Act, 1872 or to corroborate his evidence as envisaged in Section 157 of the Act of 1872. When the statement in the FIR given by an accused contains incriminating materials and it is difficult to sift the exculpatory portion therefrom, the whole of it must be excluded from evidence. A statement contained in the FIR furnished by one of the accused in the case cannot, in any manner, be used against another accused. Even as against the accused who made it, the statement cannot be used if it is inculpatory in nature nor can it be used for the purpose of corroboration or contradiction unless its maker offers himself as a witness in the trial. An FIR of a confessional nature made by an accused person is inadmissible in evidence against him, except to the extent that it shows he made a statement soon after the offence, thereby identifying him as the maker of the report, which is admissible as evidence of his conduct under Section 8 of the Act of 1872. Additionally,

any information furnished by him that leads to the discovery of a fact is admissible under Section 27 of the Act of 1872. While the conduct of an accused may be a relevant fact under Section 8 of the Act of 1872, it cannot, by itself, serve as the sole basis for conviction, especially in a grave charge such as murder. Like any other piece of evidence, the conduct of the accused is merely one of the circumstances the court may consider, in conjunction with other direct or circumstantial evidence on record. While allowing the SLP the Court observed that the accused's conduct alone cannot justify a conviction in the absence of cogent and credible supporting evidence and acquitted the appellant of all the charges.

**Gurdeep Singh Vs. The State Of Punjab [Criminal Appeal No.705 of 2024
(2025 INSC 957)]**

Date of Judgment: 11.08.2025

Section 120B of the Indian Penal Code, 1860 - The offence of criminal conspiracy need not be proved by direct evidence - It is not necessary that all conspirators participate in every stage of the commission of the offence - Essential ingredient - The existence of a prior agreement – Express or implied – To commit an unlawful act, or a lawful act by unlawful means.

The concise facts of the case is that, on the statement given by Head Constable Harjit Singh, FIR No. 65 of 2010 was registered for the offences under sections 307, 353, 332, 225, 186, and 120B of the Indian Penal Code, 1860 and Section 25 of the Arms Act, 1959. After committal, charges were framed against the accused for the offences under Sections 307, 186, 332, 353, 225 and 120B IPC, to which they pleaded not guilty. During trial, on an application moved by the prosecution under Section 319 of the Criminal Procedure Code, 1973 the appellant was summoned as an additional accused, as per order dated 06.07.2012, and his case was committed to the Sessions Court on 26.03.2014. The Sessions Court by judgment dated 31.10.2014, convicted all the accused and sentenced them for the offences as referred to above. Challenging the aforesaid judgment, the appellant filed Criminal Appeal which was dismissed by the High Court.

The offence of criminal conspiracy under section 120B IPC, by its very nature, is seldom capable of being proved by direct evidence. Being a clandestine agreement between two or more persons to commit an unlawful act, or a lawful act by unlawful means, conspiracy is typically established through circumstantial evidence, patterns of conduct, and the cumulative interferences drawn from the interactions of the accused persons. Besides, conspiracy is an independent offence and may be punishable even if the substantive offence contemplated by the conspirators does not ultimately materialize and it is a continuing offence, which begins with the formation of the unlawful agreement and continues until the common objective is either

achieved or abandoned. A crime is complete with the agreement itself and that no overt act is necessary to sustain a conviction under Section 120B IPC. The offence of criminal conspiracy need not be proved by direct evidence, nor is it necessary that all conspirators participate in every stage of the commission of the offence. Once such agreement is established, even by way of inference from circumstantial evidence, due to the covert nature of conspiracies, courts must necessarily look to the overall circumstances, the acts of the accused, and the coherence of their conduct to infer a conspiracy. The presence of a common intention and the coordinated acts of multiple persons can give rise to a legitimate inference of an unlawful agreement. The legal consequences under Section 120B IPC conspiracy is a continuing offence, which begins with the formation of the unlawful agreement and continues until the common objective is either achieved or abandoned. Further, conspiracies are proved by circumstantial evidence, as the conspiracy is seldom an open affair. Usually, both the existence of the conspiracy and its objects has to be inferred from the circumstances and the conduct of the accused. Considering the nature and gravity of the offence committed by the appellant, and keeping in view his position as an Assistant Superintendent of Jail, a role that demands the highest standards of integrity, responsibility and adherence to the rule of law, the conviction and sentence imposed by the trial Court and the High Court stands affirmed.

Mange Ram Vs. State Of Madhya Pradesh & Another [Special Leave Petition Criminal No. 10817 of 2024 (2025 INSC 962)]

Date of Judgment: 12.08.2025

Section 498A of the Indian Penal Code, 1860 - Matrimonial relationship has come to an end by way of divorce, and the parties have since settled in their respective live - Criminal prosecution emanating from that past relationship ought not to be permitted to linger as a means of harassment.

The complainant is stated to have left the matrimonial home on 15.05.2019 and returned to her parental residence. Thereafter, both parties were summoned to the Mahila Police Station, Jabalpur, for counselling. Sessions were held on 26.05.2019 and 02.06.2019. The specific allegation against the appellant is that, on 02.06.2019, he slapped the complainant at Jabalpur Railway Station, reiterated a demand for dowry in the sum of Rs.5 lakhs and threatened to ruin her life. The said demand was later increased to Rs.10 lakhs. However, the FIR came to be registered only on 21.07.2019. Being aggrieved by the continuation of the criminal proceedings, the appellant herein, who is the father-in-law of respondent No.2, along with his son, who is the husband of respondent No.2 and other family members, approached the High Court, seeking quashing of registered at Police Station Mahila Thana, Jabalpur, and all consequential proceedings arising there from.

A decree of divorce was granted between the appellant's son and the 2nd respondent by the Family Court at Bhubaneswar, by judgment and decree dated 24.08.2021 prior to which an FIR was lodged on 21.07.2019, nearly two months after the counselling proceedings had concluded. In this FIR, allegations were levelled not only against the husband but also against the appellant, the mother-in-law, and the sister-in-law. It is alleged that the appellant slapped the complainant in public at Jabalpur Railway Station and reiterated the demand for dowry. However, no explanation is forthcoming as to why such serious allegations were not disclosed earlier, particularly when the parties were engaged in conciliation. Section 498A of the IPC prescribes punishment where a woman is subjected to cruelty by her husband or his relatives. The offence

is punishable with imprisonment for a term which may extend to three years and also provides for fine. Clause (a) refers to wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to her life, limb or health, whether mental or physical. Clause (b) expands the scope of the term to include harassment with a view to coercing the woman or her relatives to meet any unlawful demand for property or valuable security, or on account of failure to meet such demand. Section 3 of the Dowry Act pertains to punishment for giving or taking dowry. Section 4 of the Dowry Act penalises the act of demanding dowry. Where the allegations are bereft of specific particulars, and particularly where the relatives sought to be prosecuted are residing separately or have had no connection with the matrimonial home, allowing the prosecution to proceed would amount to an abuse of the process of law. Where the matrimonial relationship has come to an end by way of divorce, and the parties have since settled in their respective lives, criminal prosecution emanating from that past relationship ought not to be permitted to linger as a means of harassment. Family members of the husband ought not to be unnecessarily roped into criminal proceedings arising out of matrimonial discord as it has become a recurring tendency to implicate every member of the husband's family, irrespective of their role or actual involvement, merely because a dispute has arisen between the spouses. Finally, while allowing the Special Leave Petition, the Court quashed the FIR registered at Mahila Police Station, Jabalpur, dated 21.07.2019, under Sections 498A and 34 of the IPC and Sections 3 and 4 of the Dowry Act and the charge sheet dated 18.08.2019 filed before the Court of the Judicial Magistrate First Class, Jabalpur.

The Central Bureau Of Investigation Vs. Mir Usman @ Ara @ Mir Usman Ali
[Petition(s) for Special Leave to Appeal (Crl.) No(s). 969/2025 - 2025
INSC 1155]

Date of Judgment: 22.09.2025

The Special Leave Petition has been filed by the petitioner, CBI, seeking cancellation of the bail granted by the High Court to the respondent, accused of rape. The respondent had spent 3 years and 5 months in custody before receiving bail on 24-09-2024, and nearly a year had passed since. While upholding the bail, the Court strongly criticized delays in the ongoing trial, where the victim's testimony began only on 25-08-2025 and was adjourned by four months due to her sudden illness. The Court condemned such long adjournments and the piecemeal examination of witnesses, warning that it may aid witness tampering. The Court emphasized adherence to Section 309 Cr.P.C., denounced unnecessary delays, and questioned the Public Prosecutor's plan to examine 30 witnesses, stressing that quality of evidence matters more than quantity. Reaffirming that a speedy trial is a right under Article 21, the Court directed the trial be expedited and completed, with judgment, by 31-12-2025.

While dismissing the petition, the Supreme Court directed that all High Courts issue a circular to their respective district judiciaries containing the following specific guidelines for ensuring speedy and continuous trials, adhering to the mandates of Section 309 Cr.P.C. (Section 346 of the BNSS, 2023):

- [1] The proceedings in every inquiry or trial shall be held expeditiously.
- [2] When the stage of examination of witnesses starts such examination shall be continued from day-to-day until all the witnesses in the attendance have been examined except for special reasons to be recorded in writing.
- [3] When the witnesses are in attendance before the Court no adjournment or postponement shall be granted without examining them, except for special reasons to be recorded in writing.

[4] The Court should not grant the adjournment to suit the convenience of the advocate concerned except on very exceptional grounds like bereavement in the family and similar exceptional reasons duly supported by memo. Be it noted that the said inconvenience of an advocate is not a "Special Reason" for the purpose of bypassing the immunity of Section 309 of the Cr.P.C.

[5] In case of non-cooperation of accused or his counsel, the following shall be kept in mind:

a. In case of non-cooperation of the counsel, the Court shall satisfy itself whether the non-cooperation is in active collusion with the accused to delay the trial. If it is so satisfied for reasons to be recorded in writing, it may, if the accused is on bail, put the accused on notice to show cause why the bail cannot be cancelled.

b. In cases where the accused is not in collusion with lawyer and it is the lawyer who is not cooperating with the trial, the Court may for reason to be recorded, appoint an amicus curiae for the accused and fix a date for proceeding with cross-examination/trial.

c. The Court may also in appropriate cases impose cost on the accused commensurate with the loss suffered by the witness including the expenses to attend the court.

d. In case when the accused is absent and the witness is present for examination, in that case the Court can cancel the bail of accused if he is on bail. (Unless an application is made on his behalf seeking permission for his counsel to proceed to examine the witness present even in his absence, provided the accused gives an undertaking in writing that, he would not dispute, his identity as a particular accused in the case.)

[6] The Presiding Officer of each Court may evolve the system for framing a schedule of constructive working days for examination of witnesses in each case, well in advance, after ascertaining the convenience of counsel on both sides.

[7] The summons or process could be handed over to the Public Prosecutor in-charge of the case to cause them to be served on the witnesses, as per schedule fixed by the Court.

HIGH COURT – CIVIL CASES

S.Anantha Sayanam (Mentally Retarded Person), Represented by his Elder Brother/Next Friend/Guardian namely Nagarajan Vs. The District Collector, Collectorate, Pudukkottai & Ors. [C.R.P.(NPD) (MD). No.992 of 2025] [2025 (4) MLJ 55]

Date of Judgment: 09.04.2025

The Civil Revision Petition has been filed by the petitioner, challenging the return order issued by the District Court, concerning an unnumbered MHOP, seeking the High Court to direct the District Judge to number MHOP and decide the matter on its merits. The original petition had been filed under Sections 51, 52, 53, 54, and 61 of the Mental Health Act 1987. The petitioner/plaintiff, S.Anantha Sayanam, is a 53-year-old individual alleged to be mentally challenged, possessing shares in four items of property. The petition sought the appointment of his elder brother, S.Nagarajan, as the guardian for his person and property. The Principal Sessions Court returned the petition, noting that the maintainability needed explanation and referencing an earlier Madras High Court order in O.P.No.731 of 2021 dated 27.01.2022. Therefore, the present petition has been filed.

The petitioner contended that the District Court's return of the application was incorrect, claiming that despite the repeal of the Mental Health Act, 1987, by the Mental Health care Act, 2017, the court could still exercise jurisdiction under the earlier law, supported by earlier High Court decisions under the Letters Patent Act and Section 6(b) of the General Clauses Act, 1897. The petitioner also claimed that approaching the Local Level Committee (LLC) under the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (Central Act 44 of 1999), was not feasible due to the lack of consent from other siblings, as required under Section 14(2). On the other hand, the respondent contended that the 1987 Act had been repealed, rendering the application invalid, and stated that a duly constituted LLC in the petitioner's district is the appropriate forum under the Central Act 44 of 1999 to decide guardianship matters involving all siblings.

The Court noted that the Mental Health Act 1987 was repealed under Section 126 of the Mental Health Care Act 2017. Since no proceedings were initiated under the 1987 Act prior to its repeal, the invocation of Section 6(b) of the General Clauses Act 1897 was unwarranted. The District Court, therefore, cannot currently exercise any power under the 1987 Act for guardian appointment. The Court further observed that the Guardians and Wards Act, 1890, applies only to minors and cannot be used for mentally challenged adults, and that the Mental Health Care Act, 2017, also does not provide for appointing guardians for such persons. It clarified that the only applicable law is the Central Act 44 of 1999, which enables the appointment of guardians through a Local Level Committee (LLC) headed by the District Collector. On the petitioner's claim regarding consent under Section 14(2), the Court stated that such consent is needed only if a guardian already exists, which was not the case here. The reliance on O.P. No. 731 of 2021 was rejected as it involved High Court powers under the Letters Patent, not applicable to District Courts. The Court upheld the District Court's order dated 14.10.2024 rejecting the application under the Mental Health Act, 1987, dismissed the civil revision petition, and granted the petitioner liberty to approach the LLC under Section 13 of the 1999 Act.

**The Tahsildar, Sankarapuram, Kallakurichi District Vs. Mr. T.Elumalai &
Ors. [W.A. No.1014 of 2025 and C.M.P. Nos.8262 & 9555 of 2025]
[2025(3) CTC 753]**

Date of Judgment: 03.06.2025

This writ appeal has been filed as against the order of the learned Single Judge, seeking prayer to set aside the order which directed issuance of patta and electricity service connection in favour of the writ petitioner.

The writ petitioner had sought for electricity service connection for the disputed property. The Electricity Board officials sought clarification from the Tahsildar, who reported that the land in question was classified as "Government Poromboke Vacant Natham." Based on this, the Electricity Board rejected the petitioner's application. Aggrieved, the writ petitioner challenged the rejection. The learned Single Judge impleaded the Tahsildar and directed issuance of patta in the petitioner's favour. Later, the Tahsildar found the petitioner's documents to be forged, reported the same to the District Collector, and patta was refused. The earlier writ order was set aside by the Division Bench in a prior appeal and remitted for fresh consideration. Upon reconsideration, the Single Judge again directed the Tahsildar to issue patta and ordered provision of electricity connection, further directing initiation of action against revenue officials who failed to issue patta.

The appellant/Tahsildar contended before this Court that the land was Government Natham land reserved for allotment to landless poor under RSO 21, and that the writ petitioner already possessed substantial landed property and a house. It was further contended that the petitioner encroached on Natham land, constructed a commercial building, and produced forged and fabricated documents, including a sale deed and supporting certificates, to claim ownership. The authorities confirmed that the documents were fraudulent, the VAO involved was suspended, and prosecution was in progress. The appellant submitted that allowing the writ order would result in unjust gain to an encroacher by depriving the rights of landless poor.

The writ petitioner, on the other hand, conferred that he purchased the land through a sale deed dated 18.02.2022, claimed construction of a house, and argued that the Government could not assert ownership over Natham land as per certain judicial precedents. He sought restoration of patta and contended that rejection of electricity connection was unjustified.

The Court framed the issues for determination, namely: (i) whether occupation of Natham land without Government grant confers ownership; (ii) whether the Government retains the power to regulate Natham lands under RSO 21; and (iii) whether unilateral occupation amounts to encroachment liable for eviction under the Tamil Nadu Land Encroachment Act, 1905.

The Court observed that mere occupation of land, including Natham land, cannot confer ownership or title without authority of law. Ownership must be established through valid grant, patta, or adverse possession, and fraudulent or fabricated documents cannot establish legal title. The Court elaborated on the meaning, history, and scope of Grama Natham lands, citing earlier Division Bench and Single Judge decisions, and emphasized that Natham lands are meant for allotment to landless poor and not for commercial exploitation. It also considered divergent case laws on whether Natham lands vest with the Government or not, analyzing their reasoning in depth.

The Hon'ble High Court concluded that the writ petitioner, being in possession of forged documents and already owning considerable property, was not entitled to patta or electricity connection. The Court further held that unlawful encroachment on Natham land cannot be regularized and that public interest demands protection of such lands for the benefit of the landless poor in terms of RSO 21.

Accordingly, the Court allowed the writ appeal, set aside the order of the learned Single Judge, and refused the relief sought by the writ petitioner.

Karunakaran Vs. Malavan & Ors. [C.R.P. No.694 of 2013] [2025 (3) L.W. 731]

Date of Judgment: 04.06.2025

Code of Civil Procedure, 1908, Order 21, Rule 97.

The Civil Revision Petition has been filed by the revision petitioner challenging the order of the Executing Court, which rejected an application resisting the execution of a decree in O.S.No.375 of 1997 filed by him under Order 21 Rule 97 of the Code of Civil Procedure (CPC). The 3rd respondent (Ganesan) had purchased the subject property in an auction conducted by the Executing Court in E.P.No.244 of 1998. The revision petitioner's case is that he had purchased the property on 25.03.1991, which was much prior to the attachment made in the Execution Petition. When an attempt was made to dispossess the petitioner, he filed an application under Order 21 Rule 97 CPC resisting the delivery of possession. The Executing Court rejected the application solely on the ground that Order 21 Rule 97 of CPC could only be invoked by the decree holder or the auction purchaser, and a third party could not maintain such an application. Hence, the present revision petition was filed to challenge the aforesaid order.

The Petitioner contended that the expression "any person" mentioned in Order 21 Rule 97 CPC includes any third party, such as the Petitioner, who has an independent right over the property, especially since his purchase predated the attachment. The petitioner relied on the Supreme Court judgment in *Shreenath and another v. Rajesh and others*, submitting that a third party with an independent right should not be made to wait until eviction and then be relegated to file a separate, regular suit to adjudicate their claim.

The High Court noted that a careful perusal of Order 21 Rule 97 CPC shows that the law does not restrict the application only to the decree holder or auction purchaser. Citing *Shreenath and another v. Rajesh and others*, the Court noted that the expression "any person" was used deliberately to widen the scope of the Executing Court's power so that it could adjudicate the claim made under Order 21 Rule 97. This

term includes all persons resisting delivery of possession, claiming right in the property, even those not bound by the decree, including tenants, or a stranger.

The Court also cited *Brahmdeo Choudhary v. Rishikesh Prasad Jaiswal and another*, which clearly held that a stranger to the decree who claims independent right, title and interest in the property can offer resistance before being dispossessed, and can equally agitate their claim for adjudication of their independent right even after losing possession. Based on these precedents, the High Court concluded that the Executing Court had the power and duty to adjudicate the petitioner's claim of having purchased the property prior to attachment. The Court allowed the Civil Revision Petition and directed the executing Court to decide the application filed by the revision petitioner on merits and to adjudicate all the questions as contemplated under Order 21 Rule 97 CPC as per law.

P. Ganesan (died) & Ors. Vs. P.Chinnu & Ors. [A.S. No.323 of 2022] [2024-3-TLNJ 1 (Civil)]

Date of Judgment: 26.06.2025

Indian Contract Act, 1872, Sections 201 & 202.

The Appeal Suit has been filed by the Appellant/plaintiff to set aside the trial court's Judgement and decree that the plaintiffs were not entitled to a decree of partition.

For convenience, the parties are referred to as per their status in the plaint. The case arose from a suit for partition and declaration of property purchased by the plaintiffs' father, Palani Gounder, who died intestate in 1999. His widow, Pachiammal, and seven children (Plaintiffs 1–6 and the 1st Defendant) inherited the property and jointly executed a registered Power of Attorney in 2006 in favour of the 2nd defendant to sell the property. After Pachiammal died in 2007, the 2nd defendant sold the property to defendants 3 to 5. The plaintiffs filed suit to declare the property as joint family property and invalidate the PoA. The trial court dismissed the suit, prompting the present appeal.

The plaintiffs contended that they were entitled to partition of the property into seven equal shares and that the amounts received from the 1st defendant were loans, not sale consideration. The plaintiffs claimed to have unknowingly signed blank papers and challenged the validity of the General Power of Attorney (PoA), arguing that it automatically terminated upon the death of one of the principals, Pachiammal, in 2007, as per Section 201 of the Indian Contract Act, 1872.

In response, the defendants admitted the execution of the PoA and asserted that all legal heirs, including Pachiammal, had received the full sale consideration of ₹81,43,000 and handed over possession to the 2nd defendant, as acknowledged in the receipt (Ex.B.4/Ex.B.12). The defendants contended that the PoA was coupled with interest and thus irrevocable under Section 202 of the Indian Contract Act, and that Pachiammal's death did not affect its validity or the subsequent sales.

The High Court focused on the point for determination: whether the PoA (Ex.B.11) was coupled with interest and valid after Pachiammal's death under Section 202 of the Indian Contracts Act. The court noted that while Section 201 dictates that the death of a principal terminates an agency, Section 202 provides an exception where the agent has an interest in the subject matter. The court examined the 'Sale Consideration Receipt' (Ex.B.4/Ex.B.12) dated 22.12.2006. This document showed that the parties acknowledged receiving the entire consideration of Rs. 81,43,000/- and handing over possession to the 2nd defendant. Crucially, the receipt reiterated the authorization given to the 2nd defendant to sell the property, enjoy the profit and loss, and stated that the principals would not revoke the Power of Attorney. Furthermore, having received the entire sale consideration, the 2nd respondent was relieved from the responsibility of rendering accounts. These covenants and facts proved "without doubt" that the Power of Attorney was coupled with interest. Thus, the death of one of the principals did not alter the right of the 2nd respondent to alienate the property. While dismissing the Appeal Suit, the High Court upheld the trial court's decision, confirming the validity of the PoA and the subsequent property sales.

Munusamy Vs. Manjula & Anr. [C.R.P. No.616 of 2024 and C.M.P. No.3062 of 2024] [2025(3) TLNJ 109 (Civil)]

Date of Judgment: 03.07.2025

This Civil Revision Petition was filed as against the judgment and decree of the I Additional District Court, which directed the 2nd defendant to restore possession to the plaintiff. The revision petitioner/2nd defendant filed the present petition under Section 115 of the Code of Civil Procedure seeking to set aside the said decree.

The case arose as the plaintiff, who originally purchased the suit property and constructed a house in 2012, was in financial difficulty and sought monetary assistance. Through the 2nd defendant, the plaintiff was introduced to the 1st defendant, who agreed to assist by availing a LIC loan of Rs.14,00,000/-. For that purpose, the plaintiff executed a sale deed dated 30.01.2014 in favour of the 1st defendant. According to the plaintiff, this deed was sham and nominal, only to facilitate the loan, and she continued to repay the installments. Later, the 1st defendant sold the property to the 2nd defendant on 08.04.2021 without informing the plaintiff. The defendants, with external support, dispossessed the plaintiff forcibly on 05.05.2022. Therefore, the plaintiff filed the suit under Section 6 of the Specific Relief Act, 1963 for recovery of possession.

The defendants, while admitting the plaintiff's original ownership, contended that the 2014 sale deed was an absolute sale, after which the plaintiff was allowed to remain as a tenant at a rent of Rs.14,000/- per month. They further claimed that the property was lawfully sold to the 2nd defendant and possession was transferred. They denied the allegation of forcible dispossession.

The trial Court, after examining the evidence of both parties and considering documents marked on record, decreed the suit in favour of the plaintiff, holding that she was in possession and was unlawfully dispossessed.

Before the Hon'ble High Court, the revision petitioner/2nd defendant contended that the plaint contained inconsistent claims regarding the date of dispossession and that

earlier complaints filed by the plaintiff did not mention forcible eviction. It was argued that the suit was fabricated to nullify the sale deed executed in favour of the 2nd defendant.

The respondent/plaintiff countered that she had always remained in possession of the property, the loan was settled by her, and the dispossession occurred without due process. She emphasized that in a suit under Section 6 of the Specific Relief Act, the focus is only on possession and dispossession, not on title.

The High Court observed that in a suit under Section 6 of the Specific Relief Act, the enquiry is limited to possession and dispossession within six months of the suit. Both parties admitted that the plaintiff was in possession even after the sale deed dated 30.01.2014 and the subsequent transfer dated 08.04.2021. The plaintiff produced electricity bills to prove her possession. The defendants themselves admitted in evidence that the plaintiff was in possession until May 2022 and was thereafter evicted without lawful process. The Court held that dispossession without following due process of law attracts Section 6, and restoration of possession must follow.

The Court further clarified that the question of title was not germane to the present suit and should be decided independently in the separate suit filed by the 2nd defendant for declaration of title and recovery of possession.

Accordingly, the Court dismissed the Civil Revision Petition, confirmed the judgment and decree of the trial Court, and directed restoration of possession to the plaintiff.

HIGH COURT – CRIMINAL CASES

**SPAC Tapioca Products (I) Ltd., A Limited company, Anthiyur Taluk
Represented by its Executive Director R.P.Arul Sundaram Vs. Arun Casuals
India Ltd., Represented by its Managing Director M.S.Arun Kumar, Erode
& Ors. [Crl. O.P. Nos.27089 & 27094 of 2024 in Crl. A. SR. Nos.49576 &
59577 of 2024] [2025 (4) CTC 347]**

Date of Judgment: 30.06.2025

This criminal original petition was filed as against the acquittal of the respondents/accused on the file of Judicial Magistrate Court, seeking prayer to grant leave under Section 419(4) of BNSS, 2023 to file an appeal and to convict the respondents/accused under Section 138 of the Negotiable Instruments Act. The petitioner had originally filed complaints under Section 138 NI Act on account of dishonour of cheques, but the trial court dismissed the complaints and acquitted the accused. Hence, the present petitions were filed.

The Court conferred upon Section 419(4) of BNSS, 2023 (equivalent to Section 378(4) Cr.P.C.) which stipulates that in cases instituted upon complaint, an appeal against acquittal may be filed only when the High Court grants special leave. The Court also examined Section 413 of BNSS, 2023 (equivalent to Section 372 Cr.P.C.) which expressly confers a right upon the victim to prefer an appeal against acquittal, conviction for a lesser offence, or inadequate compensation.

The Court relied upon the judgment of the Hon'ble Supreme Court of India in *M/s. Celestium Financial v. A. Gnanasekaran* (2025 INSC 804) wherein it was held that in proceedings under Section 138 NI Act, the complainant is deemed to be a victim within the meaning of Section 2(1)(y) BNSS (Section 2(wa) Cr.P.C.), and therefore has the right to file an appeal as a victim under Section 372 Cr.P.C. (Section 413 BNSS) without seeking special leave under Section 378(4) Cr.P.C. The Supreme Court further clarified that the victim and the complainant in cheque dishonour cases are one and the same and hence entitled to appeal as a matter of right.

The Court further considered the decision in *Kanishk Sinha v. State of West Bengal* (2025 INSC 278) which reiterated that judgments of constitutional courts are retrospective in nature unless expressly made prospective. Applying this principle, the Court noted that if the Supreme Court ruling in *Celestium Financial* is applied retrospectively, it would cause administrative hardship, as thousands of pending leave petitions would require transfer.

Therefore, the Court held that the dictum of the Supreme Court in *Celestium Financial* shall operate prospectively. To avoid multiplicity and administrative difficulties, the Court fixed 04.07.2025 as the cut-off date. It directed that petitions seeking leave under Section 419(4) BNSS (Section 378(4) Cr.P.C.) may be entertained only up to 04.07.2025. Thereafter, from 07.07.2025 onwards, District Courts shall entertain appeals against acquittals under Section 372 Cr.P.C. (Section 413 BNSS, 2023). The Registry of the High Court was directed not to entertain such petitions beyond that date.

Accordingly, the Court allowed the present criminal original petitions.

M.Senthilkumar and R.Marudhamani Vs. State Rep. by the Deputy Superintendent of Police, Vigilance and Anti-Corruption, Chennai City-I, Chennai [Crl. A. Nos.1186 and 1131 of 2023] [2025 (2) TLNJ 49 (Crl.)]

Date of Judgment: 07.07.2025

This Criminal Appeal had been filed as against the conviction and sentence imposed on the file of the Special Judge-cum-Chief Judicial Magistrate, seeking to set aside the conviction and acquit the appellants.

The appellants/accused were public servants in TANGEDCO. The case arose from a complaint lodged on 05.07.2012 by a contractor (P.W.2), who alleged that the first accused, an Assistant Engineer, demanded a bribe of Rs.3,000/- for processing an application for a temporary electricity connection. A trap was arranged by the Vigilance and Anti-Corruption wing. During the trap, the second accused, also an employee, received the tainted money and kept it in his pant pocket, which later tested positive in phenolphthalein solution. Both accused were arrested, and after investigation, a Final Report was filed under Sections 7 and 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988.

The Trial Court, after considering the oral and documentary evidence, found that the demand and acceptance of bribe were proved and convicted both accused, sentencing them to three years Rigorous Imprisonment with a fine of Rs.10,000/- each. Aggrieved, the accused filed these Criminal Appeals.

In appeal, the appellants contended that the sanction was defective, the complainant's version was doubtful, and the trap proceedings were vitiated by several procedural violations of the Vigilance Manual. They argued that P.W.2, the decoy, partly turned hostile and admitted that he voluntarily placed the money with the second accused without any demand. They further relied on discrepancies in the call records, non-production of arrest memo, unreliable testimony of P.W.5 (the trap witness of lower cadre), and the alleged motive of a local Counsellor inimical to the accused, who had close ties with the complainant and property owner. The appellants relied on several Supreme Court decisions, including *B. Jayaraj v. State of Andhra Pradesh* and *Neeraj*

Dutta v. State (NCT of Delhi), to argue that demand and acceptance must be proved beyond reasonable doubt and that mere recovery of tainted money is insufficient.

The prosecution, represented by the Additional Public Prosecutor, contended that the evidence of P.W.2 and P.W.5, along with the recovery of tainted money, established demand and acceptance. It was submitted that minor discrepancies and delay in report transmission did not affect the case. The prosecution argued that the entire file and registers maintained by TANGEDCO proved that the money demanded was a bribe for performing public duty.

Upon consideration, the Court observed that while the initial demand by the first accused was supported by P.W.2, the crucial aspect of acceptance by the second accused suffered from serious doubt. P.W.2, the decoy, turned hostile in material particulars, denying that the first accused instructed him to hand over the money. The evidence of P.W.5, the official witness, being of lower cadre and not of stellar quality, was found insufficient to solely establish acceptance. Contradictions between the testimonies of P.W.5 and the Trap Laying Officer, absence of arrest memo, procedural violations of the Vigilance Manual, and the admitted association of the complainant with the local Counsellor suggested a motivated attempt to trap the accused. The Court further noted that the property remained vacant, no construction was ever undertaken, and the earlier temporary connection had been disconnected for non-payment, thereby questioning the very necessity of the application.

The Court held that when motive is attributed, stricter scrutiny of evidence is required, and in the present case, the prosecution had failed to prove demand and acceptance beyond reasonable doubt. The benefit of doubt had to be extended to the accused.

Accordingly, the Court allowed the Criminal Appeals, set aside the conviction and sentence imposed by the Trial Court and directed that any fine paid shall be refunded.

C.J.Christopher Signi Vs. State of Tamil Nadu, rep. by The Inspector of Police, Vigilance and Anti-Corruption, Kanyakumari District [Crl. RC(MD) No.475 of 2025 and Crl. MP(MD) No.4915 of 2025] [2025 (2) TLNJ 79 (Crl.)]

Date of Judgment: 09.07.2025

This Criminal Revision had been filed as against the order passed by the Special Judge, whereby the petitioner/accused sought forensic examination of certain audio and video recordings along with securing the voice sample of PW-2 (defacto complainant). The petition was dismissed. The petitioner prayed to set aside the impugned order.

The petitioner, who was serving as Electrical Inspector, was facing trial under Section 7(a) of the Prevention of Corruption Act, 1988 for allegedly demanding and accepting illegal gratification of Rs.8,000/- from PW-2 for issuance of a safety certificate for a generator. The petitioner was arrested pursuant to a trap laid by the Vigilance and Anti-Corruption Wing on 23.11.2018, and the trial was at the stage of examination of defence witnesses.

The petitioner conferred that Ex-D6, a pen drive, contained three voice recordings of conversations with PW-2, including one on the date of the trap, which contradicted the prosecution's version. It was submitted that scientific verification under Section 45A of the Indian Evidence Act was required, necessitating PW-2's voice sample. The petitioner also relied on a video recording suggesting suppression of CCTV footage by the investigating agency, and contended that denial of expert examination curtailed the right to fair trial.

The respondent-State contended that the application was intended to delay the proceedings. It was argued that the video recording had been created four years after the incident and was unreliable since the persons involved were not examined. Further, Ex-D6 was downloaded from a mobile phone and subject to possible editing. It was submitted that compelling PW-2, who was a witness and not an accused, to give a voice sample would infringe his right to privacy, and the trial court had rightly dismissed the application.

The Court observed that the trial Court dismissed the application on three grounds, namely: (a) the video recording was created four years after FIR registration; (b) the persons in the video were not examined; and (c) the possibility of tampering in Ex-D6. The Court held that these reasons were untenable. The video could not be rejected solely on the ground of timing, as it may substantiate allegations of suppression of CCTV footage. Similarly, the voice recordings, being proximate to the incident, were relevant and could not be excluded merely on speculative apprehensions of tampering. It was held that such apprehensions justified expert analysis rather than rejection.

The Court further relied on *Ritesh Sinha v. State of Uttar Pradesh* [(2019) AIR SC 3592] wherein it was held that a Judicial Magistrate has the power to direct a person to give a voice sample for investigation. Section 349 of the Bharatiya Nagarik Suraksha Sanhita was also referred to, recognising the statutory power to direct such samples. The Court further referred to *Gobind v. State of Madhya Pradesh*, *K.S. Puttaswamy v. Union of India*, and other precedents to reiterate that the Right to Privacy is not absolute and may yield to compelling public interest.

It was thus held that the refusal to secure PW-2's voice sample on the ground of privacy was unsustainable, as it was being sought under judicial supervision and solely for forensic comparison in the trial. Denying such an opportunity would curtail the petitioner's right to fair defence.

Accordingly, the Hon'ble High Court set aside the impugned order and allowed the Criminal Revision Petition. The Court directed the Trial Judge to permit forensic examination of Ex-D6 within a fixed time and to take necessary steps to secure the voice sample of PW-2 under due process for limited expert comparison, and to proceed with the trial expeditiously.

S.Raju Vs. State through the Deputy Superintendent of Police Sirkazhi Subdivision, Aanaikaran Chatharam Police Station, Nagapattinam District [CrI. A(MD) No.17 of 2017] [2025 (2) TLNJ 106 (Criminal)]

Date of Judgment: 31.07.2025

This Criminal Appeal was filed under Section 374 Cr.P.C. as against the Judgment of the I Additional District and Sessions Judge, wherein the appellant/sole accused was convicted under Sections 341, 342, 376(ii) and 506(ii) IPC. The prayer in appeal was to set aside the conviction and sentence.

The prosecution case was that on 23.03.2011 at about 8.30 p.m., the victim, a 10-year-old girl, was returning home from a family function when the accused, who was standing near his house, dragged her inside, bolted the door, threatened her with a knife, and raped her. He then administered a sedative in tea, cut her hair, and left her unconscious. On the next day, he raped her again before abandoning her under a tamarind tree. She was found by her brother on 24.03.2011 evening and taken home. Her father lodged the complaint on 28.03.2011, and a case was registered.

After trial, the Court acquitted the accused of charges under Section 355 IPC, Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, and Section 3(2)(v) of SC/ST (PoA) Act, but convicted him for wrongful restraint, wrongful confinement, rape, and criminal intimidation. He was sentenced, including ten years rigorous imprisonment for rape, with concurrent sentences.

In appeal, the accused contended that there was an inordinate delay in lodging the FIR, contradictions existed between the victim's evidence and the medical records, the Accident Register bore incorrect dates, and the medical opinion on his erectile function showed he was incapable of committing the act. He further alleged that the complaint was false and motivated. The prosecution submitted that the delay was natural due to the trauma and social stigma, that the victim's evidence was consistent and corroborated by her brother and PW5 Teacher, and that medical opinion supported the prosecution case.

The High Court observed that delay in reporting in cases of child sexual assault cannot weaken the prosecution case, as the family's immediate priority is the child's safety. The victim's testimony was cogent, natural, and reliable, and stood on a higher pedestal than that of an injured witness. PW5 had seen the accused with the victim, and PW4, her brother, found her unconscious near the house of the accused, which corroborated her account. Though there were lapses in investigation and delay in medical examination, PW8 Doctor confirmed the hymen was ruptured and the victim had pain in her private parts. The wrong date entered in the Accident Register was only a clerical error.

The Court also rejected the defence of erectile dysfunction, as PW9 Doctor clarified that erectile capacity depends on circumstances and the accused was capable of sexual intercourse. The victim's consistent and detailed account, supported by medical evidence and other witnesses, left no doubt about the offence.

Accordingly, the Hon'ble High Court dismissed the Criminal Appeal and confirmed the conviction and sentence imposed by the Trial Court, further directing that the accused be secured to undergo the remaining period of sentence.

Venkatesh, S/o.Seenivasan, Old No.657, New No.1170, Keelatheru, Vettiur Village, Ariyakudi, Karaikudi Taluk, Sivagangai District Vs. Seenivasan, S/o.Rakappan, Seenivasa Mahal Backside of Matha Kovil, Ariyakudi, Karaikudi Taluk, Sivagangai District [Crl.RC(MD)No.1222 of 2025] [2025:MHC:2163]

Date of Judgment: 03.09.2025

This Criminal Revision Case was filed as against the order by the Judicial Magistrate, seeking to set aside the said order and to direct a DNA Test for determining the paternity of the Petitioner.

The Petitioner, represented earlier by his mother, had filed a maintenance case in against the Respondent, alleging that though she was married to Subbaiah (who later died in 2020), the Petitioner was in fact born through the Respondent due to physical relations by coercion and threats. The Petitioner was born on 21.01.2006. In support of the maintenance claim, the Petitioner sought for a DNA Test under Section 39 of the Bharatiya Sakshya Adhiniyam, 2023. However, in all official records and school documents, the father's name was shown as Subbaiah, and even in criminal proceedings for bail, the Petitioner himself had declared Subbaiah as his father.

The Respondent opposed the plea for DNA Test on the ground that since the Petitioner was born during the valid subsistence of the marriage of his mother with Subbaiah, there was a strong presumption under Section 116 of the Bharatiya Sakshya Adhiniyam, 2023, that the Petitioner was the legitimate son of Subbaiah. He further contended that ordering a DNA Test would infringe his right to privacy and fundamental rights under Article 21.

The Trial Court had dismissed the plea for DNA Test on the grounds of absence of sufficient cause, absence of a strong prima facie case, lack of legal justification, unexplained delay of nearly two decades, and reliance on the Petitioner's own declarations in legal documents.

On revision, the High Court examined the balance between scientific investigation and individual rights. It noted that while DNA Tests are valuable scientific tools, they

intrude upon privacy and cannot be ordered as a matter of routine unless a strong prima facie case is made out. The Court referred to precedents of the Hon'ble Supreme Court, including *Ivan Rathinam v. Milan Joseph (2025 INSC 115)* and *Selvi v. State of Karnataka (2010)*, which cautioned against routine directions for DNA Tests in the absence of compelling circumstances.

The Court observed that the mother of the Petitioner had remained silent for nearly 20 years and had neither lodged any complaint against the Respondent nor sought DNA testing at the initial stage. The delay, coupled with the absence of any proof of non-access between the mother and Subbaiah, and the consistent recognition of Subbaiah as the Petitioner's father in all official and legal records, weighed heavily against the Petitioner.

The Court held that the Petitioner had failed to establish a prima facie case for directing a DNA Test. The presumption of legitimacy under Section 116 of the Bharatiya Sakshya Adhinyam, 2023, the unexplained delay, absence of supporting documents, and infringement of the Respondent's rights under Article 21 all supported the dismissal of the plea.

Accordingly, the Court dismissed the Criminal Revision Case and upheld the order of the Judicial Magistrate, refusing to direct the DNA Test.
