

**Vol -IX
Part-III**

MARCH, 2014

IMPORTANT CASE LAWS

Compiled by

**Tamil Nadu State Judicial Academy
Chennai – 28**

INDEX

S. NO.	IMPORTANT CASE LAWS	PAGE NO.
1	Supreme Court - Civil Cases	01
2	Supreme Court - Criminal Cases	04
3	High Court - Civil Cases	08
4	High Court - Criminal Cases	13

TABLE OF CASES WITH CITATION

SUPREME COURT CITATION OF CIVIL CASES

SL. NO.	CAUSE TITLE	CITATION	PAGE NO.
1	Tribhuvanshankar Vs Amrutlal	2014 – 1 – L.W. 451	01
2	Jagdish Singh Vs Heeralal and Ors	2014 (1) CTC 652	01
3	Sanjay Verma Vs Haryana Roadways	2014 (1) CTC 745	02
4	Subramanian Swamy and Anr Vs State of Tamil Nadu and Ors	2014 (1) CTC 763	02
5	Montfort Brothers of St. Gabriel and Anr. Vs United India Insurance and Anr.,	2014 (1) CTC 886	03

SUPREME COURT CITATION OF CRIMINAL CASES

SL. NO.	CAUSE TITLE	CITATION	PAGE NO.
1	Lalitha Kumari Vs Govt. of U.P. & Ors	2014 – 1 - L.W.(CrI.) 1	04
2	Indra Sarma Vs V.K.V. Sarma	2014- 1-L.W(CrI.) 129	04
3	Sarah Mathew Vs The Institute of Cardio Vascular Diseases by its Director Dr. K.M. Cherian & Ors	2014 – 1 – L.W.(CrI.) 167	05
4	Saraswathy Vs Babu	2014- 1-L.W . 294	06
5	Shatrughan Chauhan and Anr Vs Union of India (UoI) and Ors	2014 (1) CTC 484	06

HIGH COURT CITATION OF CIVIL CASES

SL. NO.	CAUSE TITLE	CITATION	PAGE NO.
1	Karai Gowder. K (died) and Ors Vs G. Siddan and Ors	2014 -1-L.W .7	08
2	Hindustan petroleum Corporation Ltd Vs P.V. Subbiah & Ors	2014 – 1 – L.W. 411	08
3	Siluvai Rajan @ M.S. Rajan Vs Glory Stella Bai and Anr	2014 (1) CTC 467	08
4	Narasimhan. N.L Vs T.I. Viswanathan & Anr	2014 – 1 – L.W. 506	09
5	Kuppanna Gounder and Anr Vs Srinivasan & Anr	2014 – 1 – L.W. 539	09
6	Muthukrishna Gounder Vs Gowri and Ors	2014 (1) CTC 603	10
7	Darsana Bai (died) and Ors Vs C. Saroja & Ors	2014 (1) CTC 673	10
8	Sathu Dharmananda Saraswathi Swamigal Trust Vs Sree Shanmuga Seva Sangam Nattar Trust	2014 (1) CTC 726	11
9	Singaravel Vs Murugesu Udayar (Died) and Ors	2014 (1) CTC 797	12
10	Ravichandran & Ors Vs Paramasivam	2014 – 1 – L.W. 824	12

HIGH COURT CITATION OF CRIMINAL CASES

SL. NO.	CAUSE TITLE	CITATION	PAGE NO.
1	Lakshmi. T Vs The State and Ors	2014 (2) CTC 31	13
2	X Vs State & Y	2014 (2) CTC 46	13
3	Peter Ramesh Kumar, Advocate ... Contemnor	2014 –1 - L.W.(CrI.) 73	14
4	Bala & Ors Vs State rep. by Inspector of Police, Jamnamarathur Police Station, Vellore District	2014 – 1 – L.W. (CrI) 213	14
5	Ramajeyam. K Vs State rep. By The Inspector of Police, T.4 Maduravayal Police Station, Thiruvallore District	2014 – 1 – L.W. (CrI) 226	15
6	Rajan. C Vs Union of India, rep. by the Secretary to Government, Revenue Department, North Block, New Delhi-110001 and Ors	2014 – 1 – L.W. (CrI) 234	15
7	Best Ramasamy Vs The Deputy Superintendent of Police, Tiruppur. and Anr	2014 – 1 – L.W. (CrI.) 259	15
8	Muralikrishnaa Vs State (S.I. of Police,) W-23, All Women Police Station, Royapettah, Chennai – 600 014	2014- 1-L.W(CrI.) 264	16
9	Sri Priya and Ors Vs K. Tamil Selvi and Ors	2014 – 1 – L.W. (CrI.) 276	16
10	Murugesan R and Anr Vs State	2014 – 1 – L.W. (CrI) 339	17

SUPREME COURT CITATIONS CIVIL CASES

2014 – 1 – L.W. 451

Tribhuvanshankar
Vs
Amrutlal

Landlord-tenant/Relationship, denial of, eviction, suit for, decree for possession, plea, grant of, when possible, title, whether can be gone into, adverse possession, plea of, Proof of, scope, limitation, whether arrested on instituting of this suit, liberty to, plead, scope of,

Adverse Possession/ Plea of, suit for eviction, when can be taken, title, whether can be looked into, scope of, ingredients of, what are, limitation, calculation of.

Madhya Pradesh Accommodation Control Act (1961), Section 12(1)(a),(i)(e)/ Suit for eviction, limitation , adverse possession

Tamil Nadu Buildings (Lease and Rent Control) Act (1960) Suit for eviction, limitation, adverse possession

Civil Suit filed for eviction based on purchase – Plea of landlord-tenant disputed – Adverse possession pleaded – Limitation – Bar as to, when arises.

Recovery of possession – Grant of – M.P. Act applicability.

Held: No relationship of landlord-tenant – Difference, when Civil Court deals with eviction under T.P. Act and under any special enactment, like Rent Act – Court can decide on issue of title if tenant disputes same – Jurisdiction to decide – Purpose is whether denial of title is bona fide.

Finding no landlord-tenant relationship, existed under M.P. Act, no need for enquiry on title of plaintiff by High Court – Acquisition of title by prescription whether arises – Plea of landlord-tenant rejected, adverse possession, Plea of, entertaining by High Court – Whether proper – No jurisdiction to enquire into title or adverse possession.

To file a fresh suit for title and recovery of possession - Grant of liberty – Effect of, Defendant not liable for eviction under M.P. Act – Entitled to plea of adverse possession – Institution of suit would arrest running of time, with regard to adverse possession – Acts of limitation – Principles of ‘Repose’ or ‘Peace’ – If a person does not pursue his remedy within specified time, right to the extinguished.

After institution of suit, time for acquiring title by adverse possession arrested – It remained in a state of suspension till proceedings are terminated.

2014 (1) CTC 652

Jagdish Singh
Vs
Heeralal and Ors

Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002) [SARFAESI Act], Sections 34, 2(ze), 2(zc) & 2(zd) – Code of Civil Procedure, 1908 (5 of 1908), Section 9 – Jurisdiction of Civil Courts – Maintainability of Civil Suits – Ouster of Civil Court jurisdiction – Civil Suit challenging recovery action initiated by Banks – Act Ousts Civil Court jurisdiction in respect of Recovery proceedings initiated

under Act – Bank auctioned mortgaged property in pursuance of initiation of Recovery proceedings – Borrower challenged action of Bank before Debt Recovery Tribunal and same was dismissed – Joint Family members of borrower filed Civil Suit in respect of Secured Assets for partition and other relief – Contention of Joint Family members of borrower that they have right and interest in Secured Assets – No Civil Court shall have jurisdiction to entertain any Suit or proceedings “in respect of any matter” for which DRT or Appellate Tribunal is empowered to adjudicate under Act – Person claiming interest in Secured Assets has to approach DRT by filing Appeal under Act – Civil Suit challenging measures taken by Secured Creditor is barred under law.

2014 (1) CTC 745

Sanjay Verma
Vs
Haryana Roadways

Motor Vehicles Act, 1988 (59 of 1988), Section 168 – Just & Fair Compensation – Determination of Annual Income of self-employed – Apex Court in Sarla Verma case, 2009 (2) TN MAC 1 (SC) had held that in case of self-employed, unless and until there exists exceptional circumstances, Annual Income at time of death is to be taken into account – However, Co-ordinate Bench of Apex Court in Santhosh Devi, 2012 (2) TN MAC 1 (SC), had dissented with said view – Ratio in Santhosh Devi case was reiterated by Bench of Three-Judges in Rajesh V. Rajbir Singh, 2013 (3) CTC 883 (SC) – But subsequently on reference made to Three-Judges Bench, Apex Court in Reshma Kumari case, 2013 (2) CTC 680, reiterated view expressed in Sarla Verma case – Though expression ‘exceptional and extraordinary circumstances’ is not capable of any precise definition, Apex Court in Shakthi Devi case, 2010 (2) TNMAC 612 (SC), had applied said principle based on practical application and held near certainty of regular employment of deceased in Government Department to be valid ground to compute loss of Income, by taking into account possible future earnings – Said principle would be applicable to facts of present case where accident had resulted in total disability – Therefore, taking into account of Claimant’s age, addition of 50% to Income of Claimant would be justified – Appeal allowed.

Multiplier – Proper Multiplier – Age of claimant 25 years – Proper Multiplier as per Second Schedule and Sarla Verma judgment would be 17 and not 15.

Motor Vehicles Act, 1988 (59 of 1988), Section 168 – Award of Compensation – “Future Treatment” & “Plain and Suffering” – Whether both heading can be clubbed together? – Both “Future Treatment” & “Plain and Suffering” are distinct and different – Both cannot be clubbed together – Raj Kumar v. Ajay Kumar, 2010 (2) TN MAC 581 (SC); and Sanjay Batham v. Munnalal Parihar, 2011(2) TN MAC 651 (SC), followed – Considering injuries suffered by Claimant, which had left him paralysed for life, it would be just that further Compensation of ₹ 3,00,000/- is awarded on account of “Plain and Suffering”.

2014 (1) CTC 763

Dr. Subramanian Swamy and Anr
Vs
State of Tamil Nadu and Ors

Constitution of India, Article 26 – Fundamental Right to manage Religious Affairs – Rights of Denomination Religious Institutions are to be preserved and protected from any invasion by State – Rights conferred under Article 26 are subject to public order, morality and health and not subject to any other provision of part III of Constitution as limitation has been prescribed by law makers by virtue of Article 25 of Constitution – Right to administration of property by religious denomination would stand on different footing altogether from right to maintain its own affairs in matters of religion.

Words and Phrases – “Res” – Meaning – Everything that may form object of rights and includes object, subject matter or status.

Words and Phrases – “Res judicata” – A matter adjudged thing judicially acted upon or decided.

Legal Maxims – Interest reipublicae us sit finis litium – It concerns State that there be an end to law Suits

Legal Maxims – Nemo debt bis vexari pro uno et eadem causa – No man should be vexed twice over for same cause.

Words and Phrase – Phrase “religious denomination” – Collection of individuals having system of belief and common organization and designation of distinct name.

Madras Hindu Religious Charitable and Endowments Act, 1951 (T.N. Act 19 of 1951) – Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (T.N. Act 222 of 1959), Sections 44, 45(2) & 107 – Chidambaram Natarajar Temple – Commissioner of H.R & C.E. appointed Executive Officer to administer affairs of temple under Act 1951 in year 1951 – Dikshitaras filed Writ Petition challenging Order of State appointing Executive Officer for Temple – Writ Petition filed by Dikshitaras was allowed holding that Dikshitaras constituted “Religious Denomination” – State of Madras filed Appeal before Supreme Court which stood dismissed in year 1954 as Notification was withdrawn by State accepting verdict of Madras High Court – Act 1951 was repealed by Act 1959 – Again in 1987 under 1959 Act, Commissioner appointed Executive Officer for administration of Temple – Validity – Right of Dikshitaras to participate in administration of Temple and their status have attained finality – Principle of res judicata will apply in full force – Judgment of High Court declaring that Dikshitaras are Religious Denomination is Judgment in rem – State cannot pass any Order under 1959 Act to deprive rights of Dikshitaras which was affirmed by Court in earlier judgment, which attained finality – High Court cannot assume jurisdiction to sit in Appeal against its earlier judgment of 1951 which had attained finality – Even if temple was neither established nor owned by Dikshitaras nor such claim has even been made by Dikshitaras, one High Court in earlier judgment has recognized that Dikshitaras are Religious Denomination, it was not open to High Court to re-examine same issue in subsequent proceedings – Order of State appointing Executive Officer is violative of Fundamental Right – Judgments of High Court reversed.

Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (T.N. Act 22 of 1959), Sections 45, 65 & 116 – Power of Commissioner to appoint Executive Officer in temple for indefinite period – Act provides that Rules should be made to carry out purposes of Act for all matters expressly required or allowed by Act to be prescribed – Legislature intends to regulate and control any incidence of mal-administration and not complete replacement by introducing Statutory Authority to administer Temple – Order taking over management of Temple without prescribing any time limit – Failure to prescribe time duration in impugned Order taking over management of Temple – Commissioner has no power to appoint Executive Officer in Religious Denomination for indefinite period to remedy mal-administration – Order of Government for indefinite period would amount to usurpation of their proprietary rights or violation of fundamental rights guaranteed under Constitution.

2014 (1) CTC 886

Montfort Brothers of St. Gabriel and Anr.

Vs

United India Insurance and Anr.,

Motor Vehicles Act, 1988 (59 of 1988), Section 166 – Code of Civil Procedure, 1908 (5 of 1908), Section 2(11) – “Legal Representatives” – Issue as to whether Claimants are Legal Representative of deceased – When can be raised – Head Master of School run by Charitable Institution died in road accident – Claim Petition filed by Principal duly authorised by said Charitable Institution, allowed – High Court in Writ Petition set aside Award, on ground that Claimant was not Legal Representative of deceased – Held, issue of maintainability of Claim Petition was not raised by Insurance Company before Tribunal – Nonetheless, Tribunal with reference to judicial precedents decide that Claimant was Legal Representative of deceased and was entitled to Compensation – In such circumstances, held, High Court erred in determining issue of fact which was raised for first time in Writ Petition – Order of High Court denying claim on ground that Claimants were not Legal Representatives of deceased, erroneous and set aside – Appeal allowed – Constitution of India, Article 227.

SUPREME COURT CITATIONS CRIMINAL CASES

2014 – 1 - L.W.(Crl.) 1

Lalitha Kumari
Vs
Govt. of U.P. & Ors

Criminal Procedure Code, Section 154/First Information Report, FIR, Registration, in cognizance Offence, Mandatory, Preliminary Inquiry, whether before registration necessary, exceptions what are, Sections 2(3),4,5,156,157.

Police Act (1861), Section 44.

Issue for reference is whether a police Officer is bound to register a First Information Report (FIR) upon receiving any information relating to commission of a cognizable Offence under Section 154 or has the Power to conduct a preliminary inquiry.

Registration of FIR in cognizable Offences is mandatory – ‘Sine quo non’ for recording a FIR, in cognizance offence – Provision do not admit discretion on Officer in-charge of Police station for a preliminary inquiry, prior to registration of FIR – Exceptional cases, what are stated.

Book/Diary-General Diary/Station Diary/Daily Diary, What is, Effect of, difference with FIR – General Diary is record of all events taking place in a police station – Copy of it is not sent to the Judicial Magistrate, signature obtained in FIR, not in General Diary – Whether FIR to be recorded in FIR book or in General Diary, Section 154 will prevail.

Preliminary Inquiry – What is, Scope of, Necessity when arises ‘Inquiry’ in Code is a judicial act, not steps taken by police.

Concept of preliminary inquiry in crime manual of CBI, invoking of, whether necessary.

Compulsory reason to register FIR, to ensure transparency in criminal justice delivery system, to ensure judicial oversight – Two kinds of FIRs – Duly signed one by information to the concerned police officer at the station – Information received by police (under Section 157), it has to be recorded, sent to Magistrate – Both are Obligatory – Its inherent advantages, stated.

Exceptions, for registration of FIRs, cases relating to medical negligence, family matters, commercial disputes, corruption cases, preliminary inquiry to be conducted not to exceed 7 days.

2014- 1-L.W(Crl.) 129

Indra Sarma
Vs
V.K.V. Sarma

Hindu Marriage Act (1955), Section 5/Conditions for a Hindu Marriage, ‘live-in’ relationship, what is,

Domestic Violence Act (2005), Section 2(f)‘domestic relationship’ ; what is, ‘relationship in nature of marriage’; what is, ‘live-in’ relationship, whether one such, 2(a) ‘aggrieved person’ 2q/‘Respondent’, 2s/‘shared household’, Section 3/‘domestic violence’; Sections 12,19,20.

Live-in relationship, whether a 'relationship in the nature of marriage'; respondent whether entitled to maintain, appellant, an aggrieved person – Domestic violence, what is, whether amounts to.

Elements of common law marriage, what are – Sharing a common household and duty to live together form part of the Consortium Omnis Vitae – Relationship in the nature of marriage, not legally recognised.

Relief of protection order, Maintenance, Residence Order, Monetary order and compensation – Passing of – When arises – Scope of.

Distinction with marital relationship, 'Live-in' is purely an arrangement between parties, unlike a legal marriage – Once a party to a live-in-relationship determines that he/she does not wish to live in such a relationship, that relationship comes to an end – Relationship between an 'aggrieved person' and 'respondent' in section 2(q), illustrations.

Act does not recognize the relationship of same sex – Any act of the parties, would not lead to domestic violence, entitling any relief under the DV Act.

'Domestic Violence' ;what is, when arises, between whom – Guidelines for testing, when a live-in relationship will fall within 'relationship in the nature of marriage' under Section2(f).

Appellant entered into a live-in-relationship with the respondent – Not in the nature of marriage, and status of appellant was that of a concubine.

Marriage and family are social institutions of vital importance.

Appellant has committed an intentional tort – Alienation of affection is an intentional tort, gives a cause of action to the wife and children of the respondent to sue the appellant.

Appellant aware that respondent a married person, could not have entered into a live-in relationship in the nature of marriage – Not a relationship in the nature of marriage – Lower than the status of a wife – not domestic relationship – Appellant's status that of a mistress.

Relationship in the nature of Marriage – What is.

2014 – 1 – L.W.(CrI.) 167

Mrs. Sarah Mathew

Vs

The Institute of Cardio Vascular Diseases by its Director Dr. K.M. Cherian & Ors

Criminal Procedure Code (1973), Chapter XXXVI, Sections 467, 468, 469, 470 and 473.

Relevant date for computing period of limitation, under Section 468 – What is.

Date of filing of complaint or date of institution of prosecution or date on which Magistrate takes cognizance.

Held: relevant date is the date of filing of the complaint or the date of institution of prosecution – Not the date on which the Magistrate takes cognizance.

It is date of filing of the complaint which is material – Magistrate can take cognizance of an offence only if complaint in respect of it is filed within the prescribed limitation period.

Magistrate when takes cognizance, depends on facts of each case – Cognizance, what is, when taken by Court, Effect of – Interpretation of Section 468, Scope of.

2014- 1-L.W . 294

Saraswathy
Vs
Babu

Protection of Women from Domestic Violence Act (2005), Sections 18, 19, 20 and 22

Continuance of domestic violence committed by respondent-husband against appellant-wife – Conduct of parties prior to commencement of PWD Act 2005 – While passing an order under Sections 18, 19, 20 – Effect of – Appellant wife harassed is entitled for protection and residence orders along with maintenance under Section 20(d).

2014 (1) CTC 484

Shatrughan Chauhan and Anr
Vs
Union of India (UoI) and Ors

Constitution of India, Articles 21, 32, 72 & 161 – Delay in processing of Mercy Petition – Commutation of Death Sentence – Whether warranted – Prisoner convicted to Death Sentence entitled to protection under Article 21 – Unreasonable delay in execution of Mercy Petition amounts to torture of convict – Suspense created by non-consideration of Mercy Petition of prisoner for many years bound to have adverse physical and psychological impact on prisoner – Consequently, undue, unexplained and inordinate delay in execution of Death Sentence on account of pendency of Mercy Petition would be a ground for Court to interfere under Article 32 and commute Death Sentence into life imprisonment – However, said delay should not be attributable in convict – Nonetheless, plea of convict to commute Death Sentence cannot be ignored on account of gravity of crime – In all cases as there was unreasonable and unexplained delay of 6 years, 7.8 years, 9 years, 9.5 years, 12 years in disposal of Mercy Petition, Death Sentence commuted to Life Imprisonment – All Writ Petitions allowed.

Constitution of India, Articles 21, 32, 72 & 161 – Delay in processing of Mercy Petition – Commutation of Death Sentence – Scope of power of Court under Article 32 – Court, while considering plea of convict under Article 32 for commutation of Death Sentence on account of delay of execution of sentence, can only consider circumstances that caused delay and cannot reopen conclusion already reached.

Constitution of India, Articles 21, 32, 72 & 161 – Insanity/Mental Disorder of Convict – Commutation of Death Sentence – Whether warranted – Contentions of Petitioners that delay in execution of their Mercy Petitions caused chronic psychotic illness in them – Petitioners praying for commutation of Death Sentence on ground of their Insanity/Mental Illness – Held, India is a party to ICCPR which mandates that death penalty should not be imposed on those suffering from mental disorders – Moreover, an insane person is protected under Article 21 and Death Sentence imposed on such person cannot be executed without clarification from Competent Authority – In such circumstances, held, insanity a supervening circumstance warranting commutation of Death Sentence to life imprisonment – As Petitioner in W.P. No. 192 of 2013 was suffering from Schizophrenia and same was certified by Medical Officers and as Petitioner in W.P. No.191 of 2013 was suffering from Mental Illness and said fact was ignored by President while rejecting his Mercy Petition, Death Sentence awarded to both commuted to Life Imprisonment.

Constitution of India, Articles 32, 72 & 161 – Mercy Petitions – Undue delay in disposal of – Matter whether to be remanded to Executive – Delay in disposal of Mercy Petition of convict of death row leads to violation of fundamental right guaranteed under Article 21 – Court under Article 32 is guardian and enforcer of fundamental right – Court most competent to consider content of those rights and their requirements in each situation – In such circumstances, remanding of matter to Executive, when there is delay in disposal of Mercy Petition leading to violation of Article 21, unwarranted.

Constitution of India, Articles 21 & 32 – Commutation of Death Sentence vis-à-vis rights of victim – Commutation of Death Sentence to be done only after considering rights of victim of deceased's family and societal elements.

Constitution of India, Articles 21, 32, 72 & 161 – Gravity of Crime vis-à-vis commutation of Death Sentence – Held, Death Sentence is awarded in rarest of rare cases only – Consequently, gravity of offence need not be considered for deciding whether Death Sentence is to be commuted to Life Imprisonment – Distinction between offences under IPC and non-IPC offences also need not be drawn for deciding issue of commutation of Death Sentence – Decision of Apex Court in Devendra Pal Singh Bhullar case disqualifying all TADA Cases from relief on account of delay in executing of Death Sentence, held, per incuriam and differed from – Decision of Constitution Bench in Triveniben case followed.

Constitution of India, Articles 72 & 161 – Mercy Petitions – Guidelines framed by Union Government for disposal of Mercy Petitions, enumerated – Consideration of long delay in disposal of Mercy Petition, held, to be added as a factor for consideration.

Constitution of India, Articles 72 & 161 – Mercy Petitions – Expeditious disposals of, emphasised.

Constitution of India, Articles 32, 72 & 161 – Power of Executive to grant Pardon – Judicial interference – When warranted – Power of executive to grant Pardon under Articles is above judicial review – However, manner of exercise of said power is subject to limited judicial review – Delay in exercise of power, held, is a permitted ground for limited review of exercise of power under Articles.

Constitution of India, Articles 72 & 161 – Nature of power under Articles – Power vested in Governor and President under Articles 161 & 72 is a Constitutional responsibility reposed by people in highest authority – Power is to be exercised in aid of justice and on advice of Council of Ministers.

Constitution of India, Articles 72 & 161 – Exercise of power under Articles – Kind of offences – Power of Executive to reprieve, commute and pardon extends to all offences and is not limited only to Death Sentence – However, Death Sentence is only sentence that cannot be undone once it is executed and invokes a special sentiment.

Constitution of India, Articles 21, 32, 72 & 161 – Failure of Executive to dispose of Mercy Petitions – Writ Petitions seeking commutation of Death Sentence – Maintainability of – Contentions of Petitioners that their fundamental right has been violated on account of inaction of Executive under Article 72/161 – Article 32 can be invoked to enforce fundamental rights in case of action/inaction on part of Executive – In such circumstances, Writ Petitions filed by Petitioner for commutation of their Death Sentence, maintainable.

HIGH COURT CITATIONS CIVIL CASES

2014 -1-L.W .7

K.Karai Gowder (died) and Ors
Vs
G. Siddan and Ors

Hindu Succession Act (1956), Sections 14(1),(2)/Women's Estate, Absolute or restricted, enlargement of right, Scope of, Pre-existing right, Possession of property, on coming into force of the Act, Effect of,

Hindu Law/Women's right, maintenance in husband's separate property, Scope of.

Women's pre-existing right, enlargement of, into absolute right – Property, Possession on date of Act coming into force, Effect of – Women's right in husband's separate property, Scope of.

Right of maintenance of a wife is a pre-existing right, whether husband is possessed of separate or ancestral property – It can be enforced against husband's separate property – Limited estate enlarges into absolute estate.

Property given to wife, possession on date of coming into force of Succession Act, Effect of – Husband is duty-bound to maintain his wife, irrespective of possession of any joint family property, or, separate property – Maintenance of a wife by the husband is a matter of personal obligation – Property given to wife in lieu of her maintenance, became absolute property.

2014 – 1 – L.W. 411

Hindustan petroleum Corporation Ltd
Vs
P.V. Subbiah & Ors

Transfer of property Act (1982), Section 106/Suit for possession, notice, issuance of,

City Tenants Protection Act, Section 11/ Suit for possession, notice, issuance of.

It was contended that appellant is entitled to a notice under Section 11 of the City Tenants Protection Act as only a vacant site was leased out to them and the superstructure raised in the suit property belonged to them.

A person who seeks the benefit under City Tenants Protection Act must be in actual physical possession of the property - Appellant not directly in possession of the suit property, but through a dealer, they are not entitled to claim any benefit under the Act – By participating in the proceedings without filing an application under Section 9, the Corporation has waived the requirement of service of a notice under Section 11 – Notice not necessary – Corporation not in possession of demised premises – No right to claim the protection.

Notice under Section 106 in accordance with law and the notice under Section 11 is not required.

2014 (1) CTC 467

Siluvai Rajan @ M.S. Rajan
Vs

Glory Stella Bai and Anr

Specific Relief Act, 1963 (47 of 1963), Section 16(c) – Indian Evidence Act, 1872 (1 of 1872), Sections 100 to 103 – Readiness and Willingness to perform Contract -Burden of proof – Held, in Suit for Specific Performance, it is settled law that initial burden lies on Plaintiff to prove that Agreement is true and he was always ready and willing to perform his part of contract – In present case Plaintiff/Respondent has duly proved existence of valid Agreement by examining herself and also by examining Attesting Witness – She also produced copy of earlier Title Deeds along with tax Receipts, which has also been admitted by Appellant/Defendant in his Written Statement – This clearly shows that transaction was entered with intention to enter into Agreement of Sale – Plaintiff has proved that she was ready and willing by producing documents to prove that she was waiting in Sub-Registrar Office for Defendant to execute Sale Deed with balance sale consideration – Defendant’s stand that it was loan transaction and that there was no privity of contract with Plaintiff, cannot be sustained, in view of fact that Defendant apart from executing Sale Deed, has also handed over original Title Deeds – Therefore, stand of Defendant cannot be sustained – Appeal dismissed.

Specific Relief Act, 1963 (47 of 1963), Sections 16 & 20 – Specific Performance of Agreement of Sale - Whether it is mandatory for purchaser to sign Agreement of Sale? – Held, Agreement of Sale executed by Vendor alone would be valid in eye of law – Supreme Court in Alka Bose v. Parmatma Devi, 2008 (6) CTC 509 followed.

Indian Contract Act, 1872 (9 of 1872), Section 2(d) – Specific Relief Act, 1963 (47 of 1963), Sections 16 & 20 – Code of Civil Procedure, 1908 (5 of 1908), Order 1, Rule 8 – Privity of Contract – Non-joinder of necessary party – Held, it is specific case of Appellant that there is no privity of contract between Appellant and Respondent/Plaintiff - If really it was loan transaction with ‘D’, then it was for Defendant to prove same – Defendant having miserably failed to prove that it was loan transaction with ‘D’, Suit cannot be dismissed for non-joinder of ‘D’ as party to Suit, particularly when ‘D’ was examined by Respondent – Appeal dismissed.

2014 – 1 – L.W. 506

N.L. Narasimhan
Vs

T.I. Viswanathan & Anr

Tamil Nadu Buildings (Lease and Rent Control) Act Section 10(2) (i) and 10(3)(a)(iii)/Wilful default, owners own use, occupation.

Landlord -tenant relationship – Agreement of sale cancelled – Cause of action to enforce contractual right – Specific performance, suit for – Not filed – Tenant, whether to pay arrears of rent,.

Tenants have allowed three years, within which time a suit for specific performance has to be filed, to lapse and did not enforce their right as agreement holders – When right of the tenants as an agreement holder was lost, not open to turn say that such right still subsists and they need not pay rent to the landlord - Relationship of landlord and tenant exist and the tenants are liable to pay rent to the landlord – Non-payment of rent by the tenants, entitle the landlord to seek for their eviction – Ordering eviction of tenants on willful default in payment of rent for the subsequent period is valid.

2014 – 1 – L.W. 539

Kuppanna Gounder and Anr
Vs

Srinivasan & Anr

C.P.C Order 41, Rule 22/Cross appeal, Cross objection, what is, difference.

Cross objection, numbering as cross appeal, Effect of, Mainainability, rejection of - Scope – Whether cross appeal or regular appeal to be filed

Cross appeal – When more than one party files different appeals against same decree – Cross objections – When a respondent wants to challenge a part of decree.

Memorandum titled as a cross objection, numbered as cross appeal – Application filed to reject that cross appeal was allowed.

Held: mistake on the part of the lower appellate court in accepting the memorandum filed as cross appeal – Wrong nomenclature, mistake of court – Order of the trial Court rejecting the memorandum of appeal as memorandum of cross appeal, set aside for being re-presented as a memorandum of regular appeal.

2014 (1) CTC 603

Muthukrishna Gounder
Vs
Gowri and Ors

Indian Stamp Act, 1899 (2 of 1899), Article 5(j) [as inserted by Tamil Nadu Act 24 of 1975 & 38 of 1987] – Sale Agreement – Insufficiently stamped instrument – Admissibility – Sale Agreement was reduced into writing by affixing 5 Revenue Stamps – Sale Agreement insufficiently stamped was marked as Exhibit – Defendant has not objected to marking of Sale Agreement – Defendant raised issue of admissibility of insufficiently stamped Sale Agreement at Second Appeal stage - Defendant cannot question admissibility of document marked before Trial Court at Second Appeal stage.

Specific Relief Act, 1963 (47 of 1963) – Suit for Specific Performance of Contract – Sale Agreement did not contain signature of purchaser of property – Validity of Sale Agreement – Applicability of Principle of consensus ad idem – Sale Agreement contains signature of seller of immovable property – Absence of signature of purchaser in Sale Agreement would not ipso facto invalidate Sale Agreement – Sale Agreement will bind upon both parties to transaction even in absence of signature of purchaser in Sale Agreement.

Specific Relief Act, 1963 (47 of 1963) – Contract Act, 1872 (9 of 1872), Section 55 – Suit for Specific Performance – When time is essence of Contract – Exceptions to general rule – Sale Agreement stipulates that sale should be completed within prescribed time limit – Plaintiff did not take any steps to get Sale Deed executed within prescribed time – Plaintiff issued Legal Notice to Defendant after expiry of time limit mentioned in Agreement seeking execution of Sale Deed in his favour – Agreement of Sale stipulates that sale should be completed on or before specified date – When specific date has been mentioned for completion of sale, in such cases time is essence of Contract.

Specific Relief Act, 1963 (47 of 1963) – Suit for Specific Performance – Non-joinder of necessary parties – Plea of non-joinder of necessary parties was raised at Second Appeal stage – Defendant failed to raise any plea with regard to non-joinder of necessary party in Written Statement – Issue of non-joinder of necessary party cannot be entertained in absence of pleading at Second Appeal stage.

Specific Relief Act, 1963 (47 of 1963), Section 16(c) – Suit for Specific Performance – Readiness and willingness – Financial capacity of buyer – Plaintiff in his oral evidence submits that by pledging his gold jewellery he paid advance amount and thereafter pledged articles was auctioned for his incapacity to redeem – Evidence of Plaintiff would establish that he was not having sufficient funds after execution of Sale Agreement – Plaintiff failed to prove his readiness and willingness from date of Agreement till date of filing of Suit - Plaintiff not entitled for relief of Specific Performance in absence of readiness and willingness.

2014 (1) CTC 673

Darsana Bai (died) & Ors
Vs
C. Saroja & Ors

Tamil Nadu Court Fees and Suits Valuation Act, 1955 (T.N. Act 14 of 1955), Section 52, Explanation IV – High Court Fees Rules, 1956, Rule 1-A, Appendix I-A – Enhancement of Pecuniary Jurisdiction of City Civil Courts, Chennai – Transfer of Civil Suits from Original Side of Madras High Court to City Civil Court due to enhancement of Pecuniary Jurisdiction – Whether litigant is liable to pay Additional Court-fees in respect of Suits which were transferred from Original Side of Madras High Court – Whether payment of Additional fees can be levied in absence of specific provisions empowering for such collection – What is Court-fee payable in Appeal filed against Decree passed by City Civil Court in respect of Suits, which were transferred from Original Side of Madras High Court – Issues referred to Full Bench - Held, No need to pay Additional Court-fees, when Suits are transferred from Original Side of High Court to City Civil Court consequent upon enhancement of pecuniary jurisdiction – When Suits are transferred from High Court to City Civil Court at instance of any party or by Order of High Court, such party should pay Additional Court-fee on subject matter of Suit – Court –fee payable in Appeal filed against Decree passed by City Civil Court in respect of Suits, which were transferred from High Court should be on basis of Court, which passed Decree and not Court, in which Suit was filed – Ration laid down in S.R. Narayana Ayyar and S.S. Durai Pandian case affirmed.

Tamil Nadu Court fees and Suits Valuation Act, 1955 (T.N. Act. 14 of 1955), Section 52 – Code of Civil Procedure, 1908(5 of 1908), Sections 37 & 21 – Suits Valuation Act, 1887(7 of 1887), Section 11 – High Court Fees Rules, 1956, Rule 1-A, Appendix I-A – Payment of Court-fee in Appeal – Suits transferred from Original Side of Madras High Court to City Civil Court due to enhancement of pecuniary jurisdiction - Act contemplates that Court-fee payable in Appeal shall be same as fee that would be payable in “Court of First Instance” on subject matter of Appeal – Meaning of Expression “Court of First Instance” – Similar expression used in Code of Civil procedure and Suits Valuation Act are guiding factor to find out true meaning of phrase “Court of First Instance” – Phrase “Court of First Instance” has not been defined under Act – Court Fees Act makes it clear that expression used and defined in Act but defined in CPC shall have meanings respectively assigned to them in Code - Meanings provided in Sections 21 & 37 of CPC can be applied to ascertain meaning of “Court of First Instance” employed in Court Fees Act – “Court of first Instance” only means Court, which passed Decree and not in which Suit was originally filed.

Words and Phrases – “Court of First Instance” – Court of first Instance would mean only Court which decided Suit and not Court where Suit was filed.

Interpretation of Statutes – principles of statutes in pari material –Rule of Construction – Usage of similar expression in old enactment – Use of same words in similar connection in later statute gives rise to presumption that they are intended to convey same meaning as in earlier statute – When words in earlier statute have received authoritative exposition by superior Court and use of same words in similar context in latter Act will give rise to presumption that parliament intends that same interpretation should also be followed for construction of those words in latter statute – Rule will have no application when decision on earlier Act are not consistent.

2014 (1) CTC 726

Sathu Dharmananda Saraswathi Swamigal Trust
Vs
Sree Shanmuga Seva Sangam Nattar Trust

Code of Civil Procedure, 1908(5 of 1908), Section 24 – Transfer of Appeal – Seeking of transfer on security reasons – Tenability – Held, Appeal filed by Respondent before Appellate Court is against Interim Injunction granted by Trial Court – There is no necessity for parties to be present in Appellate Court – Parties are not

necessary to be present even in Trial Court, except as stage of trial – Assuming if there is any threat, it is always open to aggrieved party to approach Police authorities.

Code of Civil Procedure, 1908 (5 of 1908), Section 24 & Order 17 – Transfer of Appeal - Abuse of process – Adjourning – Practice and procedure – Filing of Memo – Effect – Unfounded allegation on Judicial Officer – Awarding of Exemplary Cost – Whether Court is bound to adjourn matter on mere filing of Memo that Petition for transfer is filed before High Court? – Held, no law says that once Memo is filed stating Petition of transfer is filed, matter should be adjourned – Unfortunate that now –a- days unfounded allegations are made against Lower Court Judicial Officers, just because early hearing is insisted – Classic case where matter is sought to be protracted for ulterior motives – Such practice must be deprecated, else same will play havoc on justice delivery system – For making such unfounded allegations against Judicial Officer, Petition directed to pay ₹ 10,000/- as cost – Petition dismissed.

Advocates Act, 1961 (25 of 1961) – Duty of Advocate – Counsel ought not to identify themselves with party – Many Transfer Petitions being filed on vexatious and false allegations on Lower Court Judicial Officers – High Court cannot remain mute spectator towards same – Parties making such allegations must face consequences.

2014 (1) CTC 797

Singaravel
Vs
Murugesu Udayar (Died) and Ors

Code of Civil Procedure, 1908(5 of 1908), Order 7, Rule 7 – Relief not claimed in Plaint – Whether can be granted – Suit for declaration and injunction – Oral Partition alleged by Plaintiff for claiming relief of declaration, not proved – In such circumstances. Held, Plaintiff not entitled to relief of partition, which was not even claimed in Suit.

Evidence Act, 1872 (1 of 1872), Sections 101 to 104 – Oral Partition – Proof of – Suit for declaration and injunction – Relief claimed by plaintiff on basis of alleged Oral Partition done on advice of Panchayatdars – However, except for testimony of an interested witness, no proof let in by Plaintiff with regard to Oral Partition – In such circumstances, dismissal of claim of Plaintiff, upheld.

2014 – 1 – L.W. 824

Ravichandran & Ors
Vs
Paramasivam

C.P.C., Order 41, Rule 27.

Application for additional evidence to be heard along with appeal – Procedure to be followed, scope of – Application when dismissed course open, what is – Incorporating the order of dismissal of application in judgment or pronouncing judgment on merits – Trial Court's role, Common order - Scope of.

Procedure when application is to be allowed, what is – Rule 28 to be followed – When – Cases where - Circumstances, under what order in such an application can be incorporated in the judgment in the appeal or passed simultaneously while pronouncing the judgment – In what cases the order should be passed separately and the appeal should be postponed for further hearing – Scope of.

HIGH COURT CITATIONS CRIMINAL CASES

2014 (2) CTC 31

T. Lakshmi

Vs

The State and Ors

Juvenile Justice (Care and Protection of Children) Act, 2000 (56 of 2000) – Juvenile Justice (Care and Protection of Children) Rules, 2007, Rule 12 – Tamil Nadu Juvenile Justice (Care and Protection of Children) Rules, 2001, Rule 8-B (as introduced vide SRO A-13/2012 w.e.f. 22.3.2012) – Inquiry contemplated for determining claim of juvenility should not be under Model Rules framed under JJ Act or under Cr.P.C. – Inquiry into such matter in State of Tamil Nadu should be under Rule 8-B of Tamil Nadu Rules – Authority under JJ Act, while verifying genuineness of Birth Certificate can seek services of Police to verify it, if it has reason to believe that Birth Certificate is forged or fabricated – Cases where birth is registered within reasonable time of birth are normally acceptable – Caution is to be exercised where birth is registered based upon Order under Section 13(3) of Registration of Births and Deaths Act, 1969 – Authority is not bound by Birth Certificate issued based on such Order – On facts, Accused held to be juvenile as on date of occurrence.

Juvenile Justice (Care and Protection of Children) Act, 2000 (56 of 2000) – Registration of Births and Deaths Act, 1969 (18 of 1969), Section 13(3) - Order of Magistrate under Section 13(3) is not equivalent to Judgment or Decree – Certificate issued under Section 13(3) is not conclusive proof of date of birth and it does not constitute estoppel – Authority under JJ Act is not bound by such Certificate and Authority can have independent enquiry.

Juvenile Justice (Care and Protection of Children) Act, 2000 (56 of 2000), Section 3 & 15 – Direction given to Juvenile Board to pass suitable Orders against Accused, who was juvenile on date of occurrence but had been convicted of offence.

2014 (2) CTC 46

X

Vs

State & Y

Code of Criminal Procedure, 1973 (2 of 1974), Sections 154, 155 & 36 – Information in cognizable Offences – Registration of First Information Report – Providing information to superior Police Officer – Practice of Commissioner of Chennai Police receiving information relating to Cognizable offences – Competent Authority to register First Information – Whether superior Officer can receive information relating to Cognizable offence – Information relating to Cognizable offence can be received by superior rank Police Officer provided such superior Officer has jurisdiction over local area – Commissioner of Police is statutorily bound to register case upon receipt of information relating to Cognizable offence –When Commissioner registers case, he may have to speak about information registered in FIR during trial of case and he will be cited as Witness in case.

Practice and Procedure – Registration of First Information Report (FIR) – General tendency of People providing information relating to Cognizable offence to superior Police Officer without approaching Officer-in-charge of Police Station, deprecated – Entertaining information relating to Cognizable offence by superior Officer will erode trust and confidence of people in Officer-in charge of Police Station – Officer in higher echelons of hierarchy of Tamil Nadu Police should educate public through Print and Electronic media that Information relating to Cognizable offence should be preferably given to Officer-in-charge of Police Station at first instance and in case

if no proper action is taken by such Officer then informant may approach superior Police Officer – Law Laid down in Lalitha Kumari case followed and applied.

2014 –1 - L.W.(Crl.) 73

Peter Ramesh Kumar, Advocate ...Contemnor

Contempt of Courts Act (1971), Section 14/Procedure in Contempt to be followed – Suo motu by Court, Scope of – Boycott – Advocate dragging out another lawyer, Effect of,

Contempt of Court Rules, Rule 8/Suo motu by Court, Scope of – Boycott – Advocate dragging out another lawyer, Effect of.

Suo motu contempt initiated by the Court against an advocate in proceedings in Madurai Bench of the Madras High Court – Dragging out another lawyer from Court during Boycott – Earlier proceedings against contemnor – Effect of – Applicability of Rule 8 – When applies – Effect of Section 14 – Manner in which contemnor conducted himself, tone and tenor of affidavit – Imposition of punishment would have senior repercussion – To watch his conduct and behavior for one year.

2014 – 1 – L.W. (Crl) 213

Bala & Ors

Vs

State rep. by Inspector of Police, Jamnamarathur Police Station, Vellore District

I.P.C., Sections 302, 395, 396, 20, Murder and dacoity,

Criminal Trial/Witnesses, examination, refreshing memory, prosecutor's duty,

Evidence Act, Section 45/Finger Prints, taking of, by whom, how 'proficient', who is, Witnesses, examination, refreshing memory, prosecutor's duty.

Tamil Nadu Police Standing Orders, Order 836, 836(3)(f)'Proficient', 836(3)(g)'Expert', 836(4)(k),

Criminal Procedure Code, Section 161/Statement, refreshing memory, need of, by Public Prosecutor, Corroboration when necessary,

Identification of Prisoners Act (1920), Sections 4, 8, Finger prints, taking of, Scope,

Witnesses examined after 10 years of incident – Duty of prosecutor to refresh memory – Finger prints of suspects, how, method, to be taken – Scope of – 'Experts', 'Proficient', who are, to take finger prints – Finger prints of suspects must be taken by the person, who is declared by a Superintendent of Police in the Mofussil or Commissioner of Police, in the city of Madras, to be qualified to take clear and well-rolled impressions – 2003-1-L.W.(Crl.) 413 and 2004-2-L.W.(Crl)814 agreed.

Prosecution failed to prove satisfactorily finger prints of A-1, A-2 and A-4 were not taken in the manner prescribed by Order 836(now, Order 801) of the Tamil Nadu Police Orders – Evidence of the finger print expert cannot be relied upon to fasten criminal liability.

Examination of witnesses, turning hostile, Effect of – Duty of Public Prosecutor, what is, Effect of 161 statement – Incident took place in 2002 witnesses deposed in 2011 – A witness should narrate the facts known to him in the Court in the same manner as he had narrated the facts to the police during investigation – A 161 statement cannot be used to corroborate the testimony of the witness.

2014 – 1 – L.W. (Crl) 226

K. Ramajeyam
Vs

State rep. By The Inspector of Police, T.4 Maduravayal Police Station, Thiruvallore District

Criminal Procedure Code, Sections 207, 208, 173(5), 209, Supply of Copies of documents, Scope of,

Natural Justice/Supply of copies of documents, Role Court, Scope of,

I.P.C., Sections 449, 302, 392 and 404/ Supply of Copies of documents, Scope of, Petition seeking copies of statements of witness and copies of experts reports, after committal to court of sessions – Scope of.

Petition seeking copies of statements of witnesses and copies of experts reports, after committal to court of sessions – Scope of.

Duty to furnish copies of the case documents under Section 207 Cr.P.C., to the accused itself is part of fair trial – Principles of natural justice incorporated in Section 207 Cr.P.C., cannot be limited upto the committal Court, or upto the commitment of the Court of Sessions.

Documents forwarded to the Court, which are not relied on by the prosecution, may be helpful to the accused to establish his innocence – Copies can be asked by the accused and have to be furnished to the accused.

Held: view that copies can be asked for only before the committal Court and not thereafter is not in accordance with law.

2014 – 1 – L.W. (Crl) 234

C. Rajan
Vs

Union of India, rep. by the Secretary to Government, Revenue Department, North Block, New Delhi-110001 and Ors

Criminal P.C., Section 482/Fair investigation, direction, Scope of.

Constitution of India, Article 226/Direction for investigation, Scope of, High Court's power – Prayer to direct an investigation by a SIT to find circumstances under which FIR was registered against the petitioner.

Plea of Petitioner that owing to his taking action against industrial houses, by sending show cause notice, for import duty evasion, duty draw back fraud, a false corruption case was fixed on him – Whether tenable – Trap case – Method, adopted – Effect of Power of Court to interfere under Article 226 or Section 482, Criminal P.C.

Interference on the ground of mala fides may be permissible in rare cases, provided the existence of bias or oblique motive is writ large on the face of the record - Question of mala fides – How to be tested.

Sanction order does not reflect any consideration of the issues of mala fides raised by the petitioner in his representations – Specific averment of the writ petitioner that the Director General called him on phone and instructed the petitioner not to issue the show cause notice, is not denied – Show cause notice issued by the writ petitioner was directed to be kept in abeyance by a communication of the Director General – Direction passed.

2014 – 1 – L.W. (Crl.) 259

Best Ramasamy
Vs

The Deputy Superintendent of Police, Tiruppur. and Anr

Tamil Nadu Gaming Act (1930), Sections 8 and 9/Gaming, 'Vettattam,

Criminal Procedure Code, Section 482/Gaming, 'Vettattam, quashing of proceedings.

Gambling in Club, 'Vettattam', permitting of, in Club premises, allegation of – Club raided, witnesses and statements only of police constables – No warrant obtained – Allegation that petitioner as President of the Club, permitted gambling.

Held: there is no independent witnesses for raid, search and seizure – Police have advance information about the gambling – Obtaining a search warrant from the Magistrate becomes necessary.

Continuance of the prosecution as against the petitioner will be a futile exercise and it will be a waste of public time and energy.

2014- 1-L.W(Crl.) 264

Muralikrishnaa

Vs

State (S.I. of Police,) W-23, All Women Police Station, Royapettah, Chennai – 600 014

Criminal Procedure Code, Section 482/Quashing of proceedings, Section 188, Offence outside India, sanction, necessity of,

I.P.C., Section 498-A/Demand Dowry outside India, committing of.

Prima facie case of dowry torture – Allegations that it is committed in India and USA – Part of crime in India – Proviso to Section 188 does not apply – Offence committed in India and USA – Continuing offence, what is – Sanction, necessity of, whether.

2014 – 1 – L.W. (Crl.) 276

Mrs. Sri Priya and Ors

Vs

K. Tamil Selvi and Ors

I.P.C., Sections 499, 500, 506(ii)/Defamation, articles in newspapers, prosecution, Scope of,

Practice and Procedure/Complaint, calendar case number, assigning of, numbering as miscellaneous (CMP) petition, illegality,

Tamil Nadu Prohibition of Woman's Harassment Act, Section 4/defamation, allegation

Maxim/De minimus non curat lex that "the law pays no regard to trifling matters, the law does not concern itself about trifles.

Offence of defamation – Newspaper article – Condemning of journalists by actors and actresses at in-house auditorium of meeting held at South India Artist Association – Remarks passed in meeting against Journalist – Complaint by wife of Journalist, whether maintainable – 'Aggrieved person' who is – Wife, whether an' aggrieved person', in case of defamation.

Held: Mens rea and actus rea, missing – Respondents not 'aggrieved persons' under Section 199 CrI.P.C.

Respondents did not disclose any prima facie case to constitute the Offence under Section 500 IPC – Respondents did not state in clear words as to which way the speech delivered by the petitioner is defamatory or in which way they are personally affected – Complaints did not disclose that the petitioners were having mens rea and

criminal intention to defame the respondents – Object of examination under section 200 – Scope of enquiry under section 202, CrI.P.C. – Judicial discretion – Scope of – Proceedings quashed.

2014 – 1 – L.W. (CrI) 339

R. Murugesan and Anr

Vs

State rep by The Inspector of Police, Mecheri Police Station, Mecheri

I.P.C., Sections 341, 394 r/w.34, 392, 302,

Criminal Procedure Code, Section 164/'Statement before a Magistrate'; 'substantive evidence'; whether, what is,

Evidence Act, Section 3/'Evidence'; what is,' 'substantive evidence'; 'corroborative evidence'; Scope of/Sections 145/cross-examination, 157/Former statements, corroboration,

Criminal Trial/'Substantive evidence'; what is, statement before Magistrate, Proof of, how to be done, Magistrate, examining of, Scope, Eyewitness, reliance of, Test Identification Parade, validity.

Prosecution case of wrongful restraint and taking away of motor cycle – Eye witnesses, reliability – Statement to Magistrate under Section 164, whether 'Substantive evidence'; what is, Scope of – Statements of witnesses in the trial Court about facts they have perceived by senses is Substantive evidence – Narration of the events by the witness in the trial Court is Substantive evidence.

Further statement before trial Court is also 'substantive evidence' – Corroboration, Proof of – Magistrate to be examined, when – When statement under 164 and signature is denied – Effect of – Statement under Section 164 is 'corroborative evidence' – Practice of examining Magistrates to prove recording of Section 164 statement, to be given up – Trial Court should summon Magistrate who recorded 164 statement, when witness denies or disowns statement.

Identification of accused – Proof of – Not acceptable – Case not proved beyond reasonable doubt.
