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IMPORTANT CASE LAWS

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SUPREME COURT CITATIONS CIVIL CASES

(2013) 3 Supreme Court Cases 606

**GIAN CHAND AND BROTHERS AND ANR
Vs
RATTAN LAL ALIAS RATTAN SINGH**

- A. Civil Procedure Code, 1908 – Or. 8 Rr. 3, 4 & 5, Or. 14 R. 3 and Or. 18 R. 3 – Obligation of defendant to deal with each allegation in plaint – Evasive denials by defendant on allegations in plaint – Effect of – Held, defendant must specifically deal with each and every allegation of fact in plaint – General denial of facts alleged in plaint is not sufficient – When nothing is specifically pleaded in written statement as against averments in plaint, defendant is not entitled to lead any evidence on those issues
- Assertion of appellant-plaintiffs as to acknowledgement of receipt of a certain amount by respondent-defendant under signature of respondent-defendant in books of account of appellants proved by witnesses, and written statement was evasive in respect of this assertion – Effect – Trial court decreed money suit of appellant-plaintiffs – High Court setting aside decree and holding that onus of proving signatures in books of account of plaintiffs not discharged by examining handwriting expert and on ground that there was variance between averments pleaded in plaint and evidence adduced – sustainability
 - Plaintiffs proved signatures of defendant by examining witnesses and marked them as exhibits without any objection from defendant – Despite averments in plaint that defendant had given acknowledgement of amount under his signature in the corresponding entry in books of accounts (bahi) of plaintiffs, except making bald denial of said averments, defendant did not specifically deny signatures – Only at stage of examination-in-chief, did defendant dispute signatures; but in cross-examination deposed evasively that he did not remember having signed at the time of purchase – Hence, attempt to make out a case that defendant was not aware of signatures, held, is not permissible as nothing was pleaded in respect thereof in written statement – Further, there was no plea of any kind of forgery or fraud – Thus, High Court erred in holding that appellant-plaintiffs did not discharge burden of proving signatures – Further, variance between pleadings and evidence of plaintiffs observed by High Court was minor, and which does not cause prejudice to defendant – Furthermore, books of accounts maintained by plaintiff firm in regular course of business cannot be rejected in absence of any rebuttal of presumption of their veracity – Hence, held, interference of High Court unwarranted – Decree of trial court restored – Evidence Act, 1872, Ss. 16, 45 and 114 III.(f)
- B. Evidence Act, 1872 – Ss. 101, 102 and 106 – Burden of proof – Onus lies on person asserting a particular fact to affirmatively establish it – Assertion of plaintiff as to acknowledgement of amount under signature of defendant proven by witnesses, and evasive reply by defendant in written statement - Effect
- C. Evidence Act, 1872 – Ss. 34, 16, 45 and 114 III. (f) – Entries made in regular course of business – Evidentiary value of – Held, books of accounts maintained in regular course of business should not be rejected without reason or rebuttal of presumption of their veracity.

SUPREME COURT CITATIONS CRIMINAL CASES

(2013) 3 Supreme Court Cases 52

SANAULLAH KHAN

Vs

STATE OF BIHAR

- A. Criminal Trial – Sentence – Death sentence – Commutation to consecutive sentence of life imprisonment – When warranted – Multiple murders – Evidence to establish gravest case of extreme culpability – Absence of - Effect

- Murder trial – Appellant-accused sentenced to death for murder of three persons – Held, there is no evidence to establish gravest case of extreme culpability of appellant – There is also no evidence to establish circumstances of appellant – However, there is sufficient evidence to establish culpability of appellant for three offences of murder as defined in S. 300 IPC, and for each of the three offences of murder, appellant is liable under S. 302 IPC for imprisonment for life, if not extreme penalty of death S. 31(1) CrPC empowers court to inflict sentences of imprisonment for more than one offence to run either consecutively or concurrently – Considering facts of instant case, appellant is liable under S. 302 IPC for imprisonment for life for each of the three offences of murder under S. 300 IPC and imprisonments for life should not run concurrently but consecutively and such punishment of consecutive sentence of imprisonment for triple murder committed by appellant will serve interest of justice – Hence, death sentence given to appellant, converted to RI for life for each of the three offences, and such imprisonments for life, to run consecutively, as aforementioned – Penal Code, 1860 – Ss. 302 and 300 – Commutation of death sentence to consecutive sentence of life imprisonment - Criminal Procedure Code, 1973, S. 31(1)

- B. Penal Code, 1860 – Ss. 302, 120-B, 201 and 364/34 – Multiple murders arising out of tiff between deceased and appellant – Circumstantial evidence – Establishment of, beyond reasonable doubt – Conviction confirmed – Evidence Act, 1872, 27

- C. Criminal Trial – Circumstantial evidence – Motive – If not established – When has no effect – Held, where other circumstances lead to the only hypothesis that accused has committed offence, court cannot acquit accused of offence merely because motive for committing offence has not been established in the case

(2013) 3 Supreme Court Cases 77

SURESH KUMAR BHIKAMACHAND JAIN

Vs

STATE OF MAHARASHTRA AND ANR

- A. Criminal Procedure Code, 1973 – S. 167(2) provisos (a)(i) & (ii) and Ss. 197 and 309 – Right of accused to statutory/default bail under – Invocation of – Held, not available where charge-sheet had been filed within period stipulated in S. 167(2) CrPC regardless of whether sanction to prosecute, even if required, had been obtained or not – Mere failure of prosecution to obtain sanction to prosecute the accused, as a result whereof no cognizance of offence was taken, held, does not entitle accused (MLA and Minister in State Government) to grant of statutory bail under S. 167(2) – Prevention of Corruption Act, 1988 – Ss. 19, 7 and 13 – Public Accountability, Vigilance and Prevention of Corruption – Prosecution of People in Power/Politicians – Penal Code, 1860, Ss. 120-B, 409, 411, 406, 408, 465, 466, 468, 471, 177, 109 r/w S.34

- B. Criminal Procedure Code, 1973 – S. 167(2) provisos (a)(i) & (ii) – Obligation under, of Magistrate/Court concerned to release accused on bail on non-filing of charge-sheet within period stipulated therein – Nature of, reiterated, is mandatory – In such a case, any detention beyond the stipulated period would be illegal.**

(2013) 3 Supreme Court Cases 215

**SUNDER ALIAS SUNDARARAJAN
Vs
STATE BY INSPECTOR OF POLICE**

- A. Penal Code, 1860 – Ss. 302, 364-A and 201 – Murder and kidnapping for ransom – Sentence – Death sentence – When warranted – Balance-sheet of aggravating and mitigating circumstances drawn up – Absence of mitigating circumstances – Killing of child for ransom, held, demonstrates extreme mental perversion not worthy of condonation - Approach, method and manner of murder disclosed outrageous criminality and premeditated action, and a brutal mindset of the highest order – Extreme misery/agony caused to aggrieved party, further held, certainly adds to aggravating circumstances – Death sentence confirmed
- B. Penal Code, 1860 – Ss. 364-A 302 and 201 – Kidnapping for ransom and murder of victim aged about 7 yrs, when ransom not paid – Conviction confirmed – Burden of proof – Factum of kidnapping of deceased by appellant-accused proved – Thus, onus was upon accused to establish how and when victim was released from his custody – In absence of any such proof produced by accused, it was natural to infer/presume that victim continued in his custody until victim was eliminated – Motive for commission of crime viz. non-payment of rasom amount, established – Pursuant to confession made by accused to the effect that he had strangulated deceased, put the body in gunny bag and threw the gunny bag in tank, dead body of victim recovered – Post-mortem report also indicating that victim had died on account of suffocation prior to his having been drowned – Moreover, belongings of deceased also recovered form residence of appellant-accused – Thus, factum of kidnapping for ransom and murder of deceased by appellant-accused proved – Impugned judgment calls for no interference – Evidence Act, 1872 – S. 106 – Criminal Trial – Circumstantial evidence – Last seen together.

(2013) 3 Supreme Court Cases 280

**KRISHAN
Vs
STATE OF HARYANA**

- A. Evidence Act, 1872 – S. 32(1) – Dying declaration – Conviction on sole basis of – Dying declaration, reiterated, can form sole basis of convction without corroboration when it is voluntary, true, reliable, free from suspicious circumstances and recorded in accordance with established practice and principles
- B. Evidence Act, 1872 – S. 32(1) – Dying declaration – Reliability – Bride burning – Wife set on fire by appellant-accused husband by pouring kerosene oil on her and setting her alight – Deceased sustained 75% burn injuries – Doctor stated both her hands including fingers and thumbs were burnt – As per post-mortem report there were superficial to deep burns all over body except lower parts – But no question put to doctor whether extent of burns was such that deceased's thumb impression could not be taken – Held, it was feasible to take her thumb impression – Conviction confirmed, under S.302 IPC – Penal Code, 1860, S. 302
- C. Criminal Trial – Witnesses – Hostile witness – Evidence of – Testimony of hostile witnesses, reiterated, can be relied upon by prosecution so far as same supports prosecution case – Not sole determinative factor – In present case, testimony of hostile witnesses in fact provided corroboration to an otherwise highly credible dying declaration – Evidence Act, 1872, S. 32(1)

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HIGH COURT CITATIONS CIVIL CASES

2013 (2) TLNJ 285(Civil)

United India Insurance Co.Ltd.,
Vs
Keval Chand Bafna and Ors

Motor Vehicles Act, 1988, Section 166 – Victim died in road accident at age of 23 years and was doing a Partnership Business he swerved the Car little on the right side of the Road the Bus belonging to Tamil Nadu Transport Corporation made head on collision – Trial Court awarded compensation and held the both Insurance Company and transport Corporation jointly and severally liable – On appeal by the Insurance Company High Court Bench modified the award and held that the case is of a contributory negligence and the Insurance Company as well as Transport Corporation liable to pay 50% each – CMA partly allowed.

2013 (2) TLNJ 296(Civil)

A. Bhuvaneshwari
Vs
Sri Ramaprabnnachar and Ors

Civil Procedure Code 1908 as amended, Section 24-A – Petition filed in the District Court, Chengalpattu to Transfer the proceedings of District Munsif Court, Sriperebudur as it comes within the Administrative Control of PDJ, Chengalpattu – the District Court dismissed the petition as not maintainable – on revision High Court held that District Court at Kancheepuram has got only powers under Section 3-A and 10 of Civil Court Act, 1873 – CRP(PD) dismissed

2013 (2) TLNJ 209(Civil)

M. Jayapal
Vs
M.N. Samapth and Ors

Indian Partnership Act, 1932, Section 69(3) – Suit for partition – Case of the plaintiff is that is plaintiff and defendant become partners and purchased suit properties – trial court held that properties are firm properties and decreed the suit – on appeal the High Court opined that the remedy for the plaintiff is to file a suit for dissolution under Section 69(3) of partnership Act and not a suit for partition of Firm properties – Decree of trial court set aside – Appeal Suit allowed.

2013 (2) TLNJ 233(Civil)

Coimbatore City Municipal Corporation, Coimbatore - 1
Vs
M/s.K.G Art Centre Private Ltd

Coimbatore City Municipal Corporation Act, 1981, Section 169(g) – Appeal filed by the assessee in the District Court to set aside the order of the Appellate Tribunal – property is a newly constructed theatre – Tribunal felt that the mode of determination of tax on the basis of rental value could not be made and wants to make on an alternative method that has to be adopted – on appeal by assessee, District Court considered the mode of calculation and set aside the order of assessing authority – on revision (para 13) it was held that the assessment could not have been done by the court and should have allowed the authorities to do such exercise – District Court

usurped powers of assessing authority and is beyond its jurisdiction – order of District Court set aside – and matter remitted to authorities – CRP (NPD) allowed with conditions.

2013 (2) TLNJ 245(Civil)

Thandapany
Vs
V. Viswanath

Pondicherry Buildings (Lease and Rent Control) Act, 1969, Section 10(3)(c) – Petition filed for eviction on the ground of bonafide requirement for own use and occupation – rent controller ordered eviction under section 10(3)A(3) – the Appellate Court dismissed the appeal – on revision the High Court felt that the court has to consider the evidence adduced – further held that tenant cannot dictate terms to the land lords and suggest the portion suitable to land lords – once bonafide is established – eviction to be ordered – CRP(NPD) dismissed.

2013 (2) TLNJ 257(Civil)

N. Baskaran and Ors
Vs
G. Geetha

Civil Procedure code 1908 as amended, Order 5, Rule 19 – Suit for partition and separate possession – suit summons served for partition and separate possession – suit summons served on the power of attorney of the defendant – principal had no knowledge of proceedings – suit decreed exparte – within the time of knowledge of exparte decree, petition filed to set aside exparte decree – registry returned that application to condone delay to be filed – trial judge held that allegation are sufficient to condone delay but directed appropriate application to be filed – on appeal the Intra Court Bench expressed that (para 10) it is important that Court should record a declaration of “due service” before it can proceed exparte. “Due service” is effective in bringing the claim to the knowledge of the Defendants. Service on the Power of Attorney of Appellants cannot be said to be “due service” – Court opined that knowledge is more than mere knowledge that decree has been passed against the defendant – order of single judge set aside – OSA allowed.

2013 (2) TLNJ 261(Civil)

Smt. Saroja Sukumaran
Vs
R. Padmanaban

Provident Funds Act, 1925, Section 60 (1) – Suit decreed for recovery of money and application under Order 38, Rule 5 of CPC, for attachments of terminal benefits – trial court ordered attachment on the alleged concession by the counsel – on revision High Court held that the terminal benefits viz., gratuity, provident fund etc., cannot be attached even in case of employee waived the benefits of the exemption – CRP (PD) allowed.

2013 (2) TLNJ 326(Civil)

Susairaj @ Anthuvan Susai
Vs
Guruprasadn The Manager, Oriental Insurance Co, Ltd.,

Motor Vehicles Act, 1988, Section 149 – Third party sustained injuries in road accident – claimed compensation from owner and insures – insurance company disputed liability as driver of offending vehicle not possess valid driving license at the time of accident-tribunal awarded compensation but held insurance company not liable – owner appealed in High Court – High Court opined that insurer cannot avoid liability (para 10) – Appeal allowed.

2013 (2) TLNJ 342(Civil)

C. Balakrishnan
Vs
Francis Rosaria Saraswathi Balakrishnan,

Specific Relief Act 1963 – Suit filed for specific performance – the trial court decreed the suit – on appeal the High Court found that the relief of specific performance being a equitable relief and when the plaintiff was not ready and not willing to perform his part of contract not entitled to relief of specific performance and only entitled to get refund of the advance with interest – appeal allowed in part.

2013 (2) TLNJ 480(Civil)

M. R. Ilangovan
Vs
P. Madanraj and Ors

Civil Procedure Code 1908 as amended, Order 6, Rule 17 – Suit for injunction with regard to property allotted by T.N. Slum clearance board – the plaintiff claimed that the charges to the board was paid by him and super structures constructed by him as per the sale agreement with allottee – amendment sought that sale deed executed in favour of allottee as null void – trial court allowed the application and not revision the High Court held that the suit itself not maintainable in view of section 65 of the T.N. Slum Areas improvement and Clearance act 1971 and the claim of amendment barred by limitation – order of trial court set aside and revision allowed.

2013 (2) TLNJ 485(Civil)

Mr. V. Umapathy, and Anr
Vs
Mrs. Santha Sivagnanam and Ors

Civil Procedure Code 1908 as amended, Order 37, Rule 2 – Suit and order 37 in the district court but was rejected as notification conforming powers on district court not made – on revision High Court being given powers to amend provisions to take away or oust jurisdiction of courts to try suits under order 37 – but High Court has not issued any notification and therefore the suit and order 37, CPC in the District Court, sub court or munsif court as the case may be is maintainable – CRP allowed.

2013 (2) TLNJ 491(Civil)

The Divisional Manager, The New India Assurance Company Ltd., Thiruvannamalai
Vs
Mrs. Navaneedhammal and Ors

Civil Procedure Code 1908 as amended, Order 41, Rule 33 – See Motor Vehicles Act Section 163-A, 173.

Motor Vehicles Act, 1988, Section 163-A, 173 – The Claimants of the victim travelled in trailer filed claim petition and tribunal awarded sum of the ₹ 1,51,000/- adopting 6 as multiplier – insurance company preferred appeal and contended that the claims is only for passengers and not for person traveling in trailer – The High Court on interpretation of the policy held that when the policy is a package policy it will cover the coolies and insurer liable to pay compensation – compensation is enhanced is to ₹ 2,82,000/- by powers under orde 41, Rule 33, CPC – appeal disposed with direction.

2013 (2) TLNJ 585(Civil)

S. Thirugnanasambandam
Vs
P. Kaliyaperumal and Ors

Civil Procedure Code 1908 as amended, Section 100 – The very fact that the plaintiff had not chosen to file a suit for specific performance even after refusal to perform and chose to file the suit after a lapse of more than two years from the date of filing of the suit – for bare injunction that too after the disputed document was referred to the forensic expert, will show absence of readiness and willingness on the part of the first plaintiff at least during the said period – in accordance with the mandate provided under section 16(c) of the Specific Relief Act, the suit for specific performance should have been dismissed by the court below – Second Appeal filed by 1st defendant allowed.

2013 (2) TLNJ 622(Civil)

S. Sumathi and Ors
Vs
R. Sharavanakumar

Hindu Marriage Act 1955, Section 24 and 26 – Petition for interim maintenance by wife under Section 24, minor daughter being made a party to the said application is procedurally incorrect – on interim order in respect of maintenance of the minor children can be made by the court only section 26 – in order to arrive at a just amount of maintenance, the wife/husband can plead that she/he has got a child also to maintain – the family court to expedite the enquiry in the petition filed for interim maintenance and that name of minor child to be deleted in the array of parties in the petition for interim maintenance – CRP disposed of with directions.

2013 (2) TLNJ 652(Civil)

Mrs. Rajammal
Vs
Rajagopal and Ors

Limitation Act, 1963, Section 5 – Petition to condone delay of 733 days in filing the petition to set aside ex parte decree dismissed by trial court – revision petition filed in High Court held, no medical records have been produced to prove that the revision petitioner was taking treatment in Kerala from 15.03.2006 to 15.04.2008 – even t he petition to condone delay was returned in 2008 and the same was represented with a delay of 347 days and the delay in representation was condoned – ex parte decree passed in 2006 – petition to condone delay moved only in 2010 after four years reasons for condonation not substantiated – no bonafides – Civil Revision Petition dismissed.

HIGH COURT CITATIONS CRIMINAL CASES

(2013) 2 MLJ(CrI) 565

N. Henry
Vs
P. Natarajan

Dishonour of Cheque – Negotiable Instruments Act (24 of 1881), Section 138(a) and 142 – Code of Criminal Procedure, 1973 (2 of 1974), Section 254(2) – Petition under Section 254(2) of Cr.P.C. To examine witnesses rejected – Revision – Whether petition filed by the party in regard to summoning of witnesses mentioned in schedule filed by him can be rejected by competent Court without any valid reason merely because the party has projected the petition under Section 254(2) of Cr.P.C. At the end of main trial of case – *Held*, Lower Court should discuss the merits and de-merits of examination of witness – Lower Court passed a cryptic / short order – Impugned order set-aside – Criminal revision petition allowed.

(2013) 2 MLJ(CrI) 588

Muthuraman @ Muthuramalingam
Vs
State, rep. By Inspector of Police, B-5 Sankar Nagar Police Station, Chennai

Seizure of contraband – Narcotic Drugs and Psychotropic Substances Act (61 of 1985), Section 8(c) read with 20(b)(ii)(B), 8(c) read with 20(b)(ii)(C) – Conviction and sentence – Whether order of conviction passed by Court below can be sustained - *Held*, report given by Sub Inspector of Police totally contradictory to FIR – Case of prosecution regarding seizure of contraband from accused doubtful – No independent witness examined to prove alleged seizure of contraband – Prosecution failed to prove case beyond reasonable doubt that contraband of Ganja was seized from accused – Conviction set aside – Appeal preferred by State seeking to modify conviction of accused under Section 8(c) read with 20(b)(ii)(C) of NDPS Act, 1985 and for enhancement of sentence of imprisonment dismissed – Criminal Appeal allowed.

(2013) 2 MLJ(CrI) 650

Mani
Vs
State through the Inspector of Police, Dindigul Taluk Police Station, Crime No. 816 of 2004, Dindigul District

Penal Code – Murder – Circumstantial evidence – Indian penal Code (45 of 1860), Section 302 – Conviction & sentence – Whether Court below was just and proper in convicting appellant accused - *Held*, Delay in lodging complaint in police station – No explanation for said delay – Non explanation for delay creates enormous doubt in respect of veracity of evidences of P.Ws. 1 to 4 – Prosecution has failed to prove circumstance relating to conduct of accused – Prosecution failed to prove case against accused beyond all reasonable doubt – Conviction and sentence set aside – Appeal allowed.

(2013) 2 MLJ(CrI) 673

**R. Baskar
Vs**

State, by Inspector of Police, Perambalur Police Station

Criminal Law – Murder – Indian Penal Code (45 of 1860), Section 302 – Conviction and sentence – Whether conviction of accused can be sustained when evidence of prosecution witness suffers from serious infirmities and inconsistencies – *Held*, vital documents like, attendance register not seized – No reasonable and probable explanation given for not seizing and producing attendance register – Without vital documents, statements of prosecution witness unbelievable and unreliable – No identification parade conducted – Date and time of arrest and recording of confession statement from accused highly doubtful – Entire prosecution case bristled with suspicious circumstances – Evidence of eyewitnesses suffer from serious infirmities, inconsistencies and inherent improbabilities – Impugned judgment of conviction unsustainable – Conviction and sentence set aside – Appeal allowed.

(2013) 2 MLJ(CrI) 680

**N. Chelliah
Vs**

State, by Inspector of Police, Murappanadu Police Station

Criminal Law – Murder – Indian Penal Code (45 of 1860), Sections 300, 302, 326, 341 and 506(ii) – Conviction and sentence passed against appellant, just and proper – *Held*, presence of P.W.1 at time of occurrence, cannot be doubted – Evidence of P.W.1 corroborates evidence of P.W.2 – Material objects recovered on disclosure statement made by accused – All requisite procedures followed by Magistrate before recording dying declaration – Opinion of doctor regarding fitness of deceased was obtained before recording delaration – Prosecution proved case beyond all reasonable doubts – Only minimum punishment imposed by Trial Court – Injuries caused are sufficient to cause death in ordinary course of nature – Intention to cause death proved, act of accused falls under first limb of Section 300 I.P.C. - Conviction and sentence confirmed – Criminal appeal dismissed.

(2013) 2 MLJ(CrI) 695

**State represented by Inspector of Police, 'Q' Branch CID, Nagapattinam
Vs**

Meeran Bai @ Syed Rahamullah @ Syed Rahamullah Meeran & Ors

Criminal Law – Police custody – Allegation that accused involved in creating false records of passports and facilitated co-accused to go to Ceylon – Police custody of accused sought for further investigation – Petition seeking police custody of accused dismissed by Magistrate – Criminal Revision – Whether petitioner has to be permitted to take custody of respondents for further investigation - *Held*, police could get lead about crime, only if accused is given custody – Investigation would progress only on information supplied by accused – Petitioner permitted to take custody of accused for further investigation – Petition disposed of.

(2013) 2 MLJ(CrI) 803

**Murugan
Vs**

State rep. By Inspector of Police, Thoothukudi North Police Station, Thoothukudi District

Criminal Law – Return of vehicle – Code of Criminal Procedure, 1973 (2 of 1974), Section 451 read with 457 – Petition for return of vehicle filed by petitioner dismissed – Whether trial Court was justified in not allowing said

application – *Held*, trial Court could have taken photograph of vehicle in issue and bond from Revision Petitioner for production of alleged vehicle if required at time of trial – Court is empowered to take proper security – Bond and security could be taken with a view to prevent evidence being destroyed, altered or lost – Photograph of vehicle to be attested or countersigned by Complainant or vehicle owner as well as by person to whom custody is handed over – Reason assigned by trial Court for dismissing application for return of vehicle not tenable – Criminal Revision Petition allowed.

(2013) 2 MLJ(Crl) 811

S. Mukanchand Bothra
Vs
Commissioner of Police, Chennai & Ors

Criminal Law – Registration of complaint – Improper use of Government Emblem – The State Emblem of India (Prohibition of Improper Use) Act, 2005, Sections 3 & 7 – Code of Criminal Procedure, 1973 (2 of 1974), First Schedule – alleged that an individual misused Indian Government Emblem in his letter pad for lodging complaint against petitioner – petitioner filed complaint against improper use of Government emblem, but no action taken by police – Whether direction can be given to police to register complaint given by petitioner – *Held*, complaint filed after lapse of six years – alleged offence under Section 3 of the Act, is punishable for less than three years and is a non-cognizable offence – Directions cannot be given to register complaint – Criminal original petition dismissed.

(2013) 2 MLJ(Crl) 812

R. Palanisamy
Vs
State by Inspector of Police, B-7, Ramanathapuram Police Station, Coimbatore

Criminal Law – Evidence – Hostile witness – Indian Penal Code (45 of 1860), Sections 376(1) and 506(ii) – Conviction and sentence challenged – At time of trial prosecution witnesses turned hostile – Trial Court relied upon statement made to doctor and judicial magistrate and convicted accused – Whether Trial Court erred in convicting accused based on inadmissible evidence on ground of suspicion and surmise – *Held*, conviction by Trial Court has no sanction of law – Findings recorded not based on legal evidence, was made without acceptable evidence – Nil incriminating evidence found from witnesses, in support of prosecution case – Wrongly appreciated evidence of witnesses – Prosecution not established charges framed against accused beyond reasonable doubts – Impugned order of conviction and sentence set aside – Appellant acquitted – Appeal allowed.

(2013) 2 MLJ(Crl) 830

Kattu Raja
Vs
State by The Inspector of Police, Oragadam Police Station, Kancheepuram

Criminal Law – Murder – Circumstantial Evidence – Indian Penal Code (45 of 1860), Section 302 – Indian Evidence Act (1 of 1872), Sections 25 and 27 – Conviction and sentence – Whether conviction of accused by trial Court based on circumstantial evidence, can be sustained – *Held*, recovery of article irrelevant, as it does not satisfy requirement of Section 27 of Evidence Act – Alleged confession made by accused in course of investigation, irrelevant and not admissible in evidence against accused under Section 25 of Evidence Act – Circumstances relied on by Trial Court nor sufficient to hold accused guilty – No other evidence proved beyond reasonable doubt – Conviction of Appellant recorded merely on conjectures and surmises – Impugned order of conviction and sentence set aside, appellant acquitted – Appeal allowed.
