

## Examples of Precedent Distinguished

### Cue Indicators -

- quite distinguishable
- to be distinguished
- decision is distinguishable
- obviously distinguishable
- clearly distinguishable
- distinguishable on facts

### CASE 1)

Learned trial Court, on the basis of a judgment in *Ravindran v. State of Kerala*, 1999 Cri LJ 2364 (Ker) and another judgment in *State of Maharashtra v. Damu Gopinath Shinde*, 2000 Cri LJ 2301: (AIR 2000 SC 1691), held pointing out of place of rape by the appellants to be admissible under Section 8 of the Evidence Act. Facts of the cases aforesaid are *quite distinguishable* and, in our considered view, cannot apply to the facts of the case in hand.

### CASE 2)

The decision in *Bai Tahira v. Ali Hussain Fassalli*, (supra) is to be confined only to the facts of that case. It falls *to be distinguished* for the following reasons : (i) the compromise of 1962 referred to therein was construed as not affecting the rights of a Muslim divorced wife in seeking to recover maintenance Under Section 125 Cr. P.C., (ii) what was considered to have been paid to the Muslim divorced wife was only the Mahar amount and not the maintenance amount payable for the Iddat period, (iii) The Mahar amount paid revealed a rate of interest which for a person residing in Bombay was held to be wholly inadequate to do duty for maintenance allowance, (iv) there was nothing in that case to show that the amount of Rs. 130/- paid towards Iddat represented the payment of a sufficient maintenance amount for the three months period of Iddat and (v) the husband in that case did not raise any plea based on Section 127(3)(b) Cr. P.C.

### CASE 3)

To decide whether the decisions of the late Chief Court are binding upon this Court we must decide whether it is a Court of co-ordinate jurisdiction- This *decision is distinguishable* as the two courts were not regarded as being Courts of equal rank or status. The Full Bench observed

that the decisions of the Chief Court were conditional authorities of the highest value to which the greatest weight and respect must be attached and that the Judges of the High Court of Rangoon should not consider themselves free to set those decisions at naught except for the best and most urgent reasons.

#### **CASE 4)**

strong reliance is placed on a ruling of their Lordships of the Supreme Court reported in *Tara Singh v. The State AIR 1951 SC 441 (O)*. This case is *obviously distinguishable*. The question in this case arose in a criminal matter in which certain witnesses had appeared in the Sessions Court. These very witnesses had made some statements in the Court of the committing Magistrate which were contradictory to the statements made by them in the Sessions Court.

#### **CASE 5)**

Learned counsel for the respondents has relied upon the decision of this Court in the case of *Jamuna Prasad Vs. Incharge, District Judge, Kanpur Nagar and others 2003 (2) ARC 299*. Stating, the case is *clearly distinguishable* on facts and has no bearing whatsoever on the matter in hand.

#### **CASE 6)**

Along with the Income Tax Return, audited statement of account for the relevant assessment years along with the report of the statutory auditors under the Companies Act, Tax Audit Report under section 44-AB of the Act and statement showing computation of income were filed by the petitioner. Subsequent thereto, notices for reassessment for these two years were issued by the learned Assessing Officer on the ground that the income has escaped assessment to tax. Therefore, the case is *distinguishable on facts*.