to them for non-payment of bribe. On that basis, the Government initiated certain inquiries and based on the report received on such inquiries, the opinion of the District Attorney was sought, who recommended filing of an application under Section 321, Cr.P.C. for withdrawal of the prosecution. During pendency of prosecution, the respondents filed petitions under Sections 482, Cr.P.C. before the High Court. In view of the order of stay granted by the High Court in the quashing proceedings, the proposed framing of charge by the trial Court could not be proceeded with. When the High Court was seized of the petitions, a statement was made on behalf of the State that a decision had been taken by the Government to withdraw the complaint. When Section 321 application was still pending, the High Court, by the impugned orders, quashed the criminal proceedings against the respondents and directed the police authorities and the Magistrate not to prosecute the respondent-petitioners.

The Supreme Court observed and held that the decision of the Government to withdraw the prosecution is an irrelevant ground, so far as the High Court is concerned, to allow a petition for quashing. It is rather surprising why further directions were issued by the High Court to the police and the Magistrate not to prosecute the petitioners once it quashed the complaint. The direction issued in the impugned order by the High Court is wholly without jurisdiction even under Section 482 of the Cr.PC.

The survival of our democracy and unity and integrity of the nation depend upon the realization that Constitutional morality is no less essential than constitutional legality. *Joseph story* the Great American Jurist who was quoted by *Sachichidananda Sinha* in his inaugural address as provisional Chairman to the Constituent Assembly on 9.12.1946, warned long back that the Constitution has been reared for immortality, if the work of man may justly aspire to such a title. It may nevertheless perish in an hour by the folly, or corruption or negligence of its only keepers, the people. The Judiciary who is accountable to the Constitution of India must be strengthened in all respects for the promotion of Human Rights Jurisprudence.

IS KANYADANAM A VALID CEREMONY

By

—JUSTICE Ch. S.R.K. PRASAD,
Former Judge,
High Court of Andhra Pradesh

In almost all states in Southern India as well as in Northern India Kanyadanam ceremony is propitiated by purohits during Hindu Marriages. It my view that the said ceremony shall not be performed since it is opposed to Articles 14, 15 19 and Article 21 as well as basic Human Rights. A valid marriage arises only with consent in between two majors since marriage-able ages are mentioned under Hindu Marriage Act, 1955. The Indian Women either illiterate or literate undergo the said ceremony without protest or demur or understanding. The ceremony consisting bride bedecked with new clothes and jewels and donating and gifting bride to the bridegroom by parents of bride. It is an insult

and indignity to Indian Women. The zealous guardian namely judiciary is under a duty to educate the people through legal services authority by organizing public meetings and seminars *etc.* It has to stop and prohibit performing the ceremony by purohits which violates the articles of Indian Constitution of India as well as fundamental rights of Indian Women.

A CRITICAL STUDY - SECTION 45 VIS-A-VIS 73 OF EVIDENCE ACT

(1) Whether Comparison of the disputed handwriting/finger impression with the admitted one without the assistance of any expert is hazardous and risky ?

(2) Whether dismissal of Petitions under Section 45 of the Evidence Act in a routine way leads to injustice and renders Section 45 non-est is valid ?

By

—POLLA SAMBASIVARAO,
Advocate,
Narsipatnam-531116, A.P.

As a Sequel to a catena of decisions of the Honourable High Court of Andhra Pradesh on the subject covered by

2006 (3) ALD 673; 2007 (3) ALD 145;
2004 (5) ALD 700

Laying down leading to the dismissal of the petitions under Section 45 of the Evidence Act either due to non-availability of the signatures of contemporary period for comparison or due to the belated stage at which the application was filed or on the ground that such an application cannot be ordered as a matter of course; and on the basis of prejudged conclusion that the opinion of an expert is not conclusive but only a piece of evidence; an honest endeavour is made for reconsideration of the principles, as it is felt denial of opportunity of an expert opinion renders the existence of Section 45 *non-est.*

It is true signature includes thumb mark. But adverting to thumb impressions in *Jaspal Singh v. State of Punjab*, AIR 1979 SC 1708, His Lordship Justice *Fazal Ali* speaking for the Bench of the Supreme Court expressed the view "the science of identifying thumb impression is an exact science and does not admit of any mistake or doubt" In *Muralilal v. State of M.P.*, AIR 1980 SC 531. Dealing with the science of identification of finger prints, the Supreme Court held, "The more developed and the more perfect a science, the less the chance of an incorrect opinion and the converse if the science is less developed and imperfect. The science of identification of finger prints has attained near perfection and the risk of an incorrect opinion is practically non-existent." Comparing the fingerprints identification with the identification of handwriting, the Supreme Court held, "on the other hand, the science of identification of handwriting is not nearly so perfect and the risk, is therefore higher" This bedrock of law is followed by His Lordship Justice M.*N. Rao* in *T. Venkata Subbamma v. Union Bank of India*, 1989 (1) Law Summary 234, and further held when the science of identification of finger prints has attained perfection, there is no reason whatsoever to discard the evidence tendered by the expert.

Without maintaining or drawing the distinction between signature and thumb