THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY
CRL.A (SR) Nos.14186, 14380, 14382, 14386, 14391 & 14466 of 2015 AND
CRL.A.Nos.393, 406, 407 & 412 of 2015

COMMON JUDGMENT:

1 All these appeals are filed challenging the conviction and sentence imposed against the appellants / accused in C.C.Nos.1, 2 and 3 of 2010 on the file of XXI Additional Chief Metropolitan Magistrate – cum – Special Sessions Court, Hyderabad, dated 09.04.2015.

2 Heard Sri B. Nalin Kumar the learned counsel for the appellants in CRL.A (SR) Nos.14186, 14380, 14382, 14386, 14391 of 2015, Sri Koka Srinivas Kumar, the learned counsel for the appellants in CRL.A (SR) No.14466 of 2015, Sri G. Manohar, the learned counsel for the appellants in CRL.A.No.393 of 2015, Sri V. Surender Rao, the learned counsel for the appellants in Crl.A.Nos.406 and 407 of 2015 and Sri H. Sudhakara Rao, the learned counsel for the appellant in Crl.A.No.412 of 2015 and Sri P.Kesavara Rao, the learned Special Standing Counsel for CBI.

3 A perusal of the record reveals that the Government issued G.O.Ms.No.110 LAW (LA&J-HOME-COURTS-C), Department, dated 03.11.2009 establishing a new Additional Chief Metropolitan Magistrate Court at Hyderabad to try the cases relating to Scan in M/s. Satyam Computer Services Limited (SCSL). Subsequently G.O.Rt.No.605 LAW (LA&J-HOME-COURTS-C), Department, dated 12.04.2010 was issued, omitting the words "**for trial of Satyam Scam Cases" "to try the cases relating to scam in the M/s. Satyam Computer Services Limited (SCSL)**".

4 It is not in dispute that a Special Court was constituted to try

the cases referred to it. The accused Nos.1 to 10 therein faced trial for the offences punishable under Sections 120-B, 420 r/w 120-B, 409, 406, 419, 467, 468, 471, 477-A and 201 IPC.

5 After full-fledged trial, the XXI Additional Chief Metropolitan Magistrate – cum – Special Sessions Court, Hyderabad found the accused Nos.1 to 10 guilty for various offences and sentenced them accordingly. The maximum sentence of imprisonment imposed in this case is up to seven (7) years. Aggrieved by the same, the accused therein filed Crl.A.(Sr) Nos.3196, 3197, 3198, 3199, 3200, 3201, 3202, 3203 and 3236 of 2015 on the file of Metropolitan Sessions Court, Hyderabad. The office of the Metropolitan Sessions Court, Hyderabad took objections with regard to the maintainability of the appeals before the Metropolitan Sessions Judge's Court. At request of the learned counsel for the parties, the matters were heard by the learned Metropolitan Sessions Judge, Hyderabad on the maintainability of the appeals and after hearing the learned counsel for the parties, the learned Metropolitan Sessions Judge arrived at a conclusion that it has no jurisdiction to entertain the appeals and directed the appellants / accused to approach the appropriate Court to ventilate their grievance. Hence the present appeals.

6 Against the common judgment passed in C.C.Nos.1, 2 and 3 of 2010, each individual accused filed separate appeals. This Court has registered the appeals filed by some of the accused and has not registered appeals filed by some of the accused. The Registry of this Court has taken the following objections with regard to the maintainability of the appeal to this Court, which read as under:

> 1. Please state how the Criminal Appeal is maintainable against the judgment of the XXI Additional Chief Metropolitan Magistrate, Hyderabad.
>
> 2. Please state how this Criminal appeal is maintainable in this Hon'ble Court against three C.C.Nos.1, 2 & 3 of 2010 on the file of XXI Additional Chief

Metropolitan Magistrate, Hyderabad.

7 The learned counsel for the appellants have resubmitted the matters with the following endorsements.

> 1. The charges in C.C.Nos.1, 2 & 3 of 2010 are clubbed together and joint trial is conducted and common judgment is passed against which present appeal is filed. As such the present appeal is maintainable. Hence resubmitted.
>
> 2. It is submitted that appellant / accused No.3 in the first instance filed Crl.A.Sr.No.3236 of 2015 on the file of Metropolitan Sessions Judge, Hyderabad, against the impugned order. The Hon'ble Metropolitan Sessions Judge by order dated 20.04.2015 held that the trial Court was later re-designated as Special Session Court and hence appeal would not be before Metropolitan Session Judge. Hence the present appeal. Hence resubmitted.

8 That is how the matters came up before the Bench. All the advocates have in one voice requested this Court to decide the jurisdictional aspect.

9 The learned Metropolitan Sessions Judge, by placing reliance on G.O.Ms.No.34 LAW (LA&J-HOME-COURTS-C), Department, dated 02.04.2013, arrived at a conclusion that the XXI Additional Chief Metropolitan Magistrate, Hyderabad has delivered the judgment as a Sessions Judge. Section 374 of Cr.P.C. deals with appeals from convictions. It is not out of place to extract hereunder the relevant portion of Sub-Section (2) of Section 374 Cr.P.C.

> (2) Any person convicted on a trial held by a Sessions Judge or an Additional Sessions Judge or on a trial held by any other Court in which a sentence of imprisonment for more than seven years may appeal to the High Court.

10 It appears that the learned Metropolitan Sessions Judge, Hyderabad passed the impugned order under an impression that the conviction and sentence imposed by the learned XXI Additional Chief Metropolitan Magistrate, Hyderabad will fall within the ambit of Sub-

Section (2) of Section 374 Cr.P.C. In para No.7 of the order, the learned Metropolitan Sessions Judge stated as under:

> "In the judgment at para No.63 the Judge was conscious that he was adopting the Sessions procedure and gave opportunity to the Public Prosecutor under Section 234 of Cr.P.C, which is under Chapter – Trial before a Court of Sessions."

11 The learned Metropolitan Sessions Judge proceeded on a premise that the XXI Additional Chief Metropolitan Magistrate, Hyderabad has followed the procedure as contemplated under Chapter XXIX of Cr.P.C while conducting the trial. If really the learned XXI Additional Chief Metropolitan Magistrate Hyderabad has followed the procedure contemplated under Chapter XXIX Cr.P.C., he might have convicted or acquitted the accused under Section 235 Cr.P.C.

12 The learned counsel for the parties have drawn my attention to para No.2822 of the judgment wherein the learned XXI Additional Chief Metropolitan Magistrate, Hyderabad observed that the Accused Nos.1 to 10 are found guilty for the offences punishable under various Sections of law and convicted for the said offences under Section 248 (2) Cr.P.C.

13 A perusal of the judgment delivered by the learned XXI Additional Chief Metropolitan Magistrate, Hyderabad clearly demonstrates that the accused were found guilty of various offences and were convicted and sentenced under Section 248 (2) Cr.P.C.

14 Chapter XXIX Cr.P.C. (Sections 238 to 250 of Cr.P.C) deals with the procedure to be followed by the Magistrate while conducting the trial of warrant cases. When the accused in a case was convicted under Section 248 (2) Cr.P.C, that itself demonstrates that the trial Court conducted the trial by following the procedure as contemplated under Chapter XXIX Cr.P.C.

15 In para No.7 of the order, the learned Metropolitan Sessions Judge made an observation, which reads as follows:

> "… Hence the upgrading of XXI Addl. Chief Metropolitan Magistrate Court as Sessions Court can be understood as for trying the offences in these CCs…"

16 I have carefully scanned the G.O.Ms.No.34 LAW (LA&J-HOME-COURTS-C) Department, dated 02.04.2013. A perusal of the same clearly reveals that the XXI Additional Chief Metropolitan Magistrate, Hyderabad has been designated as a Court of Session for conducting trial of the cases arise under the Prevention of Money Laundering Act, 2002. Designation of a Court as a Court of Session, cannot be equated with upgradation of the same as a Sessions Court. If really the XXI Additional Chief Metropolitan Magistrate Court, Hyderabad was upgraded to Court of Session, as observed by the learned Metropolitan Sessions Judge, Hyderabad so far as C.C.Nos.1, 2 and 3 of 2010 are concerned, certainly, the wording employed in G.O.Ms.No.34 LAW (LA&J-HOME-COURTS-C), Department, dated 02.04.2013 would be otherwise. Therefore, the finding of the learned Metropolitan Sessions Judge that the XXI Additional Chief Metropolitan Magistrate Court, Hyderabad is upgraded as Sessions Court is factually incorrect so far as the C.C.Nos.1, 2 and 3 of 2010 are concerned.

17 I am fully agreeing with the submissions made by the learned counsel for the appellants and the learned standing counsel for CBI that the Court of XXI Additional Chief Metropolitan Magistrate, Hyderabad was not upgraded as Court of Session for the purpose of conducting trial in C.C.Nos.1, 2 and 3 of 2010. Merely because the XXI Additional Chief Metropolitan Magistrate Court, Hyderabad was designated as Sessions Court for the purpose of conducting trial of cases under the Prevention of Money Laundering Act, 2002, it would

not automatically confer the powers of Sessions Court on the said Court while dealing with the offences under IPC. Both the counsel in one voice submitted that except Section 467 IPC, the other offences for which the accused persons have faced trial falls outside the purview of offences as mentioned in the schedule of the Prevention of Money Laundering Act, 2002 as on the date of registration of F.I.R. Viewed from that angle also, the order passed by the learned Metropolitan Sessions Judge, Hyderabad is not sustainable.

18 At the time of arguments, the learned counsel for the appellants, Sri G. Manohar, V. Surender Rao and Sri H.Sudhakar Rao made an endorsement on the appeals requesting this Court to decide the jurisdictional aspect so as to put a quietus to further litigation on that aspect. The learned counsel for some of the appellants have taken a specific plea that appeal against conviction and sentence imposed in C.C.Nos.1, 2 and 3 of 2010 will lie to the Court of Metropolitan Sessions Judge, Hyderabad and not to this Court.

19 It is not in dispute that the offences for which the appellants / accused have faced trial are triable by a Magistrate. In Metropolitan areas, Chief Metropolitan Magistrates and Additional Chief Metropolitan Magistrates will exercise powers of a Magistrate while conducting trial. The learned Metropolitan Sessions Judge returned the appeals by placing reliance on Sections 43 and 44 of the Prevention of Money Laundering Act, 2002. The provisions of Sections 43 and 44 of Prevention of Money Laundering Act, 2002 enjoin the jurisdiction on the Special Court to try the offences enumerated in the said Act along with the scheduled offences. As observed supra, except Section 467 of IPC, other offences fall outside the purview of the scheduled offences of the Prevention of Money Laundering Act, 2002. If the Special Court conducted the trial

under the provisions of Prevention of Money Laundering Act, 2002, no doubt, the appeal lies to this Court and not to the Court of the Metropolitan Sessions Judge. It is not the case of even the prosecution that the appellants / accused have faced trial under the provisions of the Prevention of Money Laundering Act, 2002 so as to press into service the provisions of Sections 43 and 44 of the said Act. Viewed from that angle also, the provisions of Sections 3, 4, 43 and 44 of the Prevention of Money Laundering Act, 2002 have no application to the facts of the case on hand.

20 As rightly pointed out by the learned counsel for the appellants, if the appeals are entertained by this Court, the next forum would be the Hon'ble apex Court only. If the procedure contemplated under Cr.P.C. is followed, the appellants herein will have one more forum to ventilate their legitimate grievance. Depriving the appellants to avail one more chance would certainly cause prejudice to the statutory rights of appeal to the appellants. Viewed from that angle also, this Court is of the considered view that the appeal against the conviction and sentence imposed in C.C.Nos.1, 2 and 3 of 2010 lie to the Metropolitan Sessions Court only but not to this Court.

21 Another objection taken by the Registry is that one appeal is not maintainable against the conviction and sentence imposed in C.C.Nos.1, 2 and 3 of 2010. A perusal of the record reveals that in all the three matters, common trial was conducted by framing common charges. Of course, the appellants /accused were convicted and sentenced under different counts. When all the three matters were clubbed together and a common judgment was passed, there is no necessity to file separate appeals unlike in civil suits.

22 In the light of the foregoing discussion, I am upholding the

objection No.1 raised by the Registry of this Court with regard to the maintainability of the appeals to this Court. However, so far as the objection No.2 raised by the Registry with regard to filing of separate appeal against each of the C.C. is not sustainable.

23 The Registry is directed to return all the appeals and appeal SRs to the appellants or to their respective counsel for presentation before the Court of Metropolitan Sessions Judge, Nampally, Hyderabad, which alone has jurisdiction to entertain the appeals on all aspects.

T.SUNIL CHOWDARY, J.

Date: 30th April, 2015.
kvsn