IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 18.08.2016

PRONOUNCED ON : 03.10.2016

Coram

THE HONOURABLE **MR. JUSTICE G.CHOCKALINGAM**

Crl.R.C.Nos.1148, 1163 and 1164 of 2016
and MP.Nos.1 + 1 + 1 of 2015
and Crl.MP.Nos.900 to 902 of 2016

Kishore Padmanaban .. Petitioner in Crl.RC.1148 of 2015

Srinivas Ramachandran .. Petitioner in Crl.RC.1163 of 2015

Kannan .. Petitioner in Crl.RC.1164 of 2015

Vs.

1. Everonn Educational Limited,
   represented by its Associate Vice President, Group Legal,
   Mr.Sachin Dhingra.

2. State rep by Commissioner of Police,
   No.132, EVK Sampath Road,
   Vepery, Chennai-7.

3. State rep by
   Deputy Commissioner of Police,
   Central Crime Branch,
   Egmore, Chennai-8 .. Respondents in all the cases.

Prayer :- Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C. to set aside the orders dated 23.06.2015 and 09.10.2015 made in CMP.No.4643 of 2015 passed by the learned Judicial Magistrate, Alandur.

For Petitioners : Mr.V.T.Gopalan, SC
for S.Ashok Kumar (in all cases).

For Respondents : Mr.R.Shanmugha Sundaram, SC
for Mr.Rohit Kochhar for R1.

Mrs.M.F.Shabana GA (Crl.side) for R2 & R3.

COMMON ORDER

All the Criminal Revisions are directed against the order passed by the learned Judicial Magistrate, Alandur made in CMP.No.4643 of 2015 dated 23.06.2015 and 09.10.2015, directing the third respondent/police to register a case under Section 156(3) against the petitioners for the offences under Sections 403, 406, 408, 409, 417, 418, 420, 109 r/w.120(b) IPC.

2.The first respondent/Everonn Education Limited is the complainant filed the present complaint before the learned Judicial Magistrate, Alandur under Section 200 Cr.PC, along with seventeen documents, seeking direction under Section 156(3)Cr.PC against the petitioners for the alleged offences under Sections 403, 406, 408, 409, 417, 418, 420, 109 r/w.120(b) IPC.

3.The trial Court after receiving the complaint passed the following orders on 23.06.2015 and 09.10.2015 which are extracted hereunder:-

> **Dated : 23.06.2015.**
>
> Heard. Perused. The Deputy Commissioner of Police CCB Vepery, Chennai is hereby directed under Section 156(3) of Cr.PC to register a case u/s.403, 406, 408, 409, 417, 418, 420, 109 r/w.120(b) IPC and investigate and submit a report before this Court on or before 31.07.2015.
>
> **Dated : 09.10.2015**
>
> Heard. Even after specific direction given to the respondent/police have not yet registered the case and reported to this Court. Hence, I have further directed to the respondent/police to obey the order at the earliest.

4.Aggrieved against the orders of the learned Judicial Magistrate, Alandur, the first accused/Kishore preferred Crl.RC.No.1148 of 2015, the seventh accused/Srinivas Ramachandran preferred Crl.RC.No.1163 of 2015 and the eighth accused/Kannan preferred Crl.RC.No.1164 of 2015, before this Court.

5.In this case, the learned counsel for the revision petitioners mainly contended that the order of the Judicial Magistrate is unlawful, illegal and not maintainable under the law. The learned Judicial Magistrate failed to apply the judicial mind and erroneously passed the docket order against the settled principles of law. The docket orders passed by the trial Court are illegal and contrary to the Sections 84 and 156(3) Cr.PC and also against the dictum laid down by the Hon'ble Apex Court. The matter involved is commercial dispute between the corporate companies, the complainant preferred the complaint belatedly, without looking into the above aspects and settled principles of law, the learned Judicial Magistrate passed the above said docket orders, which is contrary to law. Hence, the learned counsel prays to set aside the order of the trial Court and to allow the criminal revision.

6.The learned counsel for the first respondent mainly contended that the trial Court after considering the complaint passed appropriate orders under Section 156(3) Cr.PC and directed the third respondent/Deputy Commissioner of Police, CCB, Egmore, Chennai to register the case for the offences under Section 403, 406, 408, 409, 417, 418, 420 109 r/w.120(b) IPC and investigate and submit a report before the Court on or before 31.07.2015. Subsequently, on 09.10.2015, the trial Court passed the following order, which reads as follows :-

> **<u>Dated : 09.10.2015</u>**
>
> Heard. Even after specific direction given to the respondent/police have not yet registered the case and reported to this Court. Hence, I have further directed to the respondent/police to obey the order at the earliest.

In view of the above, there is no illegality or infirmity in the order passed by the trial Court, hence, the learned counsel prays for dismissal of the revision petition.

7.The learned Government Advocate (Crl.side) mainly contended that the trial Court after appreciating the entire facts and circumstances of the case, correctly directed the respondent police to register a case and there is no illegality or infirmity in the orders of the trial Court and the learned Government Advocate (Crl.side) prays for dismissal of the revision petition.

8.Heard the rival submissions made on both sides and perused the records produced on either side.

9.On reading of the complaint amongst other allegations, the main contention in the complaint are as follows :-

> "6. The complainant submits that under the pretext of servicing the aforesaid agreement, the first accused in connivance with the other accused persons, under the grab of a Sham Master Rental and Financing Agreement dated 01.04.2010 ("the Sham Agreement") illegally and fraudulently siphoned off a huge amount of Rs.53,76,13,292/- (Rupees Fifty three crores seventy six lakhs thirteen thousand two hundred and ninety two only) to the second accused company which was owned and controlled by the first accused (through himself and through his daughter and close relatives, namely the third, fourth, fifth and sixth accused) purportedly as lease rentals. The complainant submits that as mentioned above, the equipment was to be transferred by the complainant company to the UP Government upon the expiry of 5

years and therefore, there was no question of taking such equipment on lease.

9. The complainant submits that apart from the above, the first accused by misusing his position and the trust placed in him by the complainant company, and in order to further obtain wrongful gains for himself and his co-conspirators the other accused herein, had fraudulently induced the complainant company to issue a corporate guarantee for a huge amount of Rs.59.12 crores being the amount that was procured by the second accused company with the connivance of the other accused from Axis Bank Ltd (Axis Bank) under the garb of a loan for the purported purchase of the equipment required to full fill the obligations under the sham agreement. The complainant submits that the sole intention, with which the said loan facility was availed by the second accused company with the connivance of others, was to usurp the funds and thereby cause wrongful loss to the complainant herein.

13. The complainant submits that in pursuance of the conspiracy, with dishonest intention, all the accused in connivance with each other caused huge funds to the tune of Rs.53,76,13,292/- (Rupees Fifty three crores seventy six lakhs thirteen thousand two hundred and ninety two only) to be siphoned off from the bank accounts of the complainant company to the account of the second accused company during the period from October, 2009 to June, 2013 and further the second accused company and the other accused unlawfully misappropriated the amounts fraudulently obtained by it under the garb of term loan facilities from Axis Bank and since the second accused company, had not repaid the said amount, fraudulently obtained from Axis Bank, the complainant company in the capacity of Corporate Guarantor suffered huge wrongful loss on account of being compelled to pay the loan amount and the complainant company was forced to pay an amount of Rs.41,23,68,175/- (Rupees Forty crores twenty three lakhs sixty eight thousand one hundred and seventy

five only) to the loan account of the second accused company with Axis Bank. The documents in support of the aforesaid misappropriation of funds are enclosed herewith.

14. The complainant submits that though the contract entered by the complainant company by the first accused with the UP Government was initially for Rs.91.87 cores, the value of the contract was subsequently reduced to about Rs.48 cores. However, the sham agreement fabricated by the first accused in connivance with other accused, entered for the purported leasing of computers and other accessories was valued at Rs.111.87 cores approximately. On the other hand the total value of the computers and accessories which were to be supplied in terms of the agreement and purchase order, both dated 05.12.2009 with HCL was only for Rs.11,69,45,939/- (Rupees Eleven cores sixty nine lakhs forty five thousand nine hundred and thirty nine only) and by 24.09.2010, most of the said equipments

> had already been supplied and installed by HCL. This would clearly demonstrate, and manifest the magnitude of fraud, cheating and Criminal Breach of Trust, committed by the first accused in conspiracy with other accused."

For the reasons stated above, the present complainant filed complaint before the Judicial Magistrate under Section 156(3) Cr.PC.

10.The main grounds of allegations raised on the side of the revision petitioners are extracted hereunder :-

> "**2**. The petitioner respectfully submits that he has been arrayed as 7th accused in the complaint and the general allegations made against the petitioner and others is that while the 1st accused was Managing Director of M/s.Everonn Education Limited (herein after referred to as **Everonn)** the petitioner along with the other directors of M/s.Acorn Commodities Exchange and Holdings Private Limited (herein after referred to as **Acorn**), unlawfully entered into sham Master Rental and Financing Agreement dated 01.04.2010 and defrauded Everonn of a sum of

Rs.94,99,81,468/-(Rupees Ninety Four Crores Ninety Nine Lakhs Eighty One Thousand Four Hundred and Sixty Eight only). The petitioner is the present director Acorn and the allegations made in the complaint is as follows:-

i) Everonn entered into agreement dated 17.11.2009 with U.P. Government for providing comprehensive computer education in Government Senior Secondary Schools under "Build Own Operate and Transfer" (BOOT) for a period of five years. Under BOOT, the equipment to be procured for project had to be transferred to U.P.Government on the expiry of five years. It is alleged that, without equipments being purchased directly by Everonn, Acorn and Everonn entered into a Master Rental Agreement dated 01.04.2010, whereby Everonn had to pay Lease amount to Acorn and Acorn in turn would install equipments for the project for a period of 5 years and the same is inconsistent with the terms of the agreement entered with U.P.Government.

ii) It is alleged that even before the execution of the Master Rental Agreement, Everonn itself had entered into Agreement dated 05.12.2009 with M/s.HCL Infosystems Ltd for the purchase of equipments and almost all supplies were performed by HCL to Government schools by 24.09.2010. It is further alleged that the agreement entered by Everonn with HCL was not brought to the notice of the Board of Directors of Everonn and a Corporate Guarantee to a sum of Rs.59.12.Crores was provided by Everonn for the loan provided by Axis Bank to Acorn for the purported purchase of Equipments of U.P.Project. By stating so, it is alleged that, without purchasing equipments, the accused siphoned the entire amount and thereby caused wrongful loss to Everonn.

iii) It is alleged that even prior to the date of Agreement between U.P.Government (17.11.2009) Acorn obtained sanction loan from Axis Bank on 30.09.2009 itself purportedly for the purchase of equipments for U.P. Government. It is also alleged that Acorn does not have experience and expertise in the Education Space. Further it is alleged that due to the failure of Acorn to repay the loan amount, Everonn as a Corporate Guarantee was forced to pay a sum of Rs.41,23,68,175/-.

iv) It is alleged that even though initially the contract entered with U.P. Government was for Rs.91.87 Crores the same was reduced subsequently to Rs.48 Crores. Whereas it is alleged that Acorn entered into purported leasing of Computers for a value of 111.87 Crores when the total value of accessories supplied by HCL was only Rs.11,69,45,939/-.

v) It is alleged that under Master Rental Agreement a sum of Rs.53,76,13,292/- was siphoned off by Acorn from October 2009 to June 2013 from Everonn and Everonn was forced to pay a sum of Rs.41,23,68,175/- to Axis Bank as Corporate

Guarnantor and therefore wrongful loss caused to Everonn was to the tune of Rs.94,99,81,467/-.

G. (vii) The main averment in the complaint is that a sham Master Rental and Financing Agreement dated 01.04.2010 was entered into between Everonn and Acorn for siphoning off amounts. Even as per the complaint, the complainant paid a sum of Rs.41,23,68,175/- in the capacity of Corporate Guarantor on 30.09.2013 to Axis Bank and closed the loan availed by Acorn for purchase of equipments. If at all originally there has been any siphoning of amounts by the petitioner or other accused, prudently complainant would have lodged a complaint against the petitioner and others for siphoning off amounts even prior to the payment made to Axis Bank and further the alleged sham Master rental and Financing Agreement would have been cancelled immediately by the complainant. The fact that no complaint was lodged by the present complainant before or after payment of Rs.41,23,68,175/- being made to Axis

Bank and non-cancellation of the alleged sham Master Rental Agreement by the present complainant would clearly prove that the present complaint has been lodged with malafide intention and ulterior motives. Moreover, it is an admitted fact that as on today no proceedings has been initiated by the complainant for the recovery of the alleged misappropriated amount, which clearly proves that the complaint is nothing but an attempt to arm twist the petitioner to cover up their own misdeeds and their acts of commission and omission. Further if fraud has been committed on Everonn then immediately Everonn would have withdrawn the corporate guarantee given to Axis Bank. But in this case without withdrawing the corporate guarantee Everonn had paid the amount to Axis Bank.

viii) In the complaint it has been alleged that under Master rental Agreement a sum of Rs.53,76,13,292/- was siphoned off by Acorn from October 2009 to June 2013 from Everonn. The said averment itself would clearly prove that false complaint has been lodged against us. It is an admitted fact that the 1st accused was relieved from the management of Everonn as early as 19.09.2011 and such being the position, allegation of amounts being siphoned from Everonn till June 2013 is highly imaginary and improbable.

H (vi) In the complaint, the complainant with malafide intention has suppressed the fact that the present management (Varkey Group) which took over the company after the petitioner was forcefully removed on 19.09.2011, has approved and accepted the Master Rental Agreement to be a genuine transaction and has conveniently shown the lease Rental Amount paid to Acorn as expenditures in their Annual Returns and has deducted TDS as follows:

(a) In financial year 2009-2010 deducted TDS for a sum of Rs.10,56,194/- for the Lease Rental Amount of Rs.5,28,09,689/-.

(b) In financial year 2010-2011 deducted TDS for a sum of Rs.33,59,622/- for the Lease Rental Amount of Rs.16,79,80,970/-

(c) In financial year 2011-2012 deducted TDS for a sum of Rs.44,38,762/- for the Lease Rental Amount of Rs.22,19,38,157/-.

(d) In financial year 2012-2013 deducted TDS for a sum of Rs.47,75,121/- for the Lease Rental Amount of Rs.16,17,11,060/-.

11.On reading of the allegation mentioned in the complaint filed by the first respondent and also the ground raised on the side of the accused, 1, 7 and 8/revision petitioners, clearly shows that the matter is civil in nature between the parties.

12.In view of the above said circumstances, this Court has to consider the settled principles of law laid down by the Hon'ble Apex Court in the judgment reported in **(2014) 2 SCC 1 - Lalita Kumari V. Government of Uttar Pradesh and others** which held as follows :-

Conclusion/Directions:

120) In view of the aforesaid discussion, we hold:

120.1) Registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.

120.2) If the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offence is disclosed or not.

120.3) If the inquiry discloses the commission of a cognizable offence, the FIR must be registered. In cases where preliminary inquiry ends in closing the complaint, a copy of the entry of such closure must be supplied to the first informant forthwith and not later than one week. It must disclose reasons in brief for closing the complaint and not proceeding further.

120.4) The police officer cannot avoid his duty of registering offence if cognizable offence is disclosed. Action must be taken against erring officers who do not register the FIR if information received by him discloses a cognizable offence.

120.5) The scope of preliminary inquiry is not to verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence.

120.6) As to what type and in which cases preliminary inquiry is to be conducted will depend on the facts and circumstances of each case. The category of cases in which preliminary inquiry may be made are as under:

a) Matrimonial disputes/ family disputes

b) Commercial offences

c) Medical negligence cases

d) Corruption cases

e) Cases where there is abnormal delay/laches in initiating criminal prosecution, for example, over 3 months delay in reporting the matter without satisfactorily explaining the reasons for delay.

The aforesaid are only illustrations and not exhaustive of all conditions which may warrant preliminary inquiry.

120.7) While ensuring and protecting the rights of the accused and the complainant, a preliminary inquiry should be made time bound and in any case it should not exceed 7 days. The fact of such delay and the causes of it must be reflected in the General Diary entry.

120.8) Since the General Diary/Station Diary/Daily Diary is the record of all information received in a police station, we direct that all information relating to cognizable offences, whether resulting in registration of FIR or leading to an inquiry, must be mandatorily and meticulously reflected in the said Diary and the decision to conduct a preliminary inquiry must also be reflected, as mentioned above.

121) With the above directions, we dispose of the reference made to us. List all the matters before the appropriate Bench for disposal on merits.

13.In yet another recent judgment of the Hon'ble Supreme Court reported in **(2015) 6 SCC 287 - Priyanka Srivastava and another V. State of Uttar Pradesh and others.**

"25.Recently, in R*amdev Food Products (P) Ltd. v.State of Gujarat,* while dealing with the exercise of power under section 156(3) Cr.P.C.by the learned Magistrate, a three-Judge Bench has held that : (SCC p.456, para 22)

“22.1. The direction under Section 156(3) is to be issued, only after application of mind by the Magistrate. When the Magistrate does not take cognizance and does not find it necessary to postpone instance of process and finds a case made out to proceed forthwith, direction under the said provision is issued. In other words, where on account of credibility of information available, or weighing the interest of justice it is considered appropriate to straightaway direct investigation, such a direction is issued.

22.2.The cases where Magistrate takes cognizance and postpones issuance of process are cases where the Magistrate has yet to determine existence of sufficient ground to proceed."

27. Regard being had to the aforesaid enunciation of law, it needs to be reiterated that the learned Magistrate has to remain vigilant with regard to the allegations made and the nature of allegations and not to issue directions without proper application of mind. He has also to bear in mind that sending the matter would be conducive to justice and then he may pass the requisite order. The present is a case where the accused persons are serving in high positions in the Bank. We are absolutely conscious that the position does not matter, for nobody is above

the law. But, the learned Magistrate should take note of the allegations in entirety, the date of incident and whether any cognizable case is remotely made out. It is also to be noted that when a borrower of the financial institution covered under the SARFAESI Act, invokes the jurisdiction under the Section 156(3) Cr.P.C. and also there is a separate procedure under the Recovery of Debts due to Banks and Financial Institutions Act, 1993, an attitude of more care, caution and circumspection has to be adhered to.

28. Issuing a direction stating “as per the application”to lodge an FiR creates a very unhealthy situation in society and also reflects the erroneous approach of the learned Magistrate. It also encourages unscrupulous and unprincipled litigants.

29. At this stage it is seemly to state that power under Section 156(3) warrants application of judicial mind. A court of law is involved. It is not the police taking steps at the stage of Section 154 of the Code.

A litigant at this own whim cannot invoke the authority of the Magistrate. A principled and really grieved citizen with clean hands must have free access to invoke the said power. It protects the citizens but when pervert litigations takes this route to harass their fellow citizens, efforts are to be made to scuttle and curb the same.

30. In our considered opinion, a stage has come in this country where Section 156(3) Cr.P.C. Applications are to be supported by an affidavit duly sworn by the applicant who seeks the invocation of the jurisdiction of the Magistrate. That apart, in an appropriate case, the learned Magistrate would be well advised to verify the truth and also can verify the veracity of the allegations. This affidavit can make the applicant more responsible. We are compelled to say so as such kind of applications are being filed in a routine manner without taking any responsibility whatsoever only to harass certain persons. That apart, it becomes more disturbing and alarming when

one tries to pick up people who are passing orders under a statutory provision which can be challenged under the framework of the said Act or under Article 226 of the Constitution of India. But it cannot be done to take undue advantage in a criminal court as if somebody is determined to settle the scores.

35. A copy of the order passed by us be sent to the learned Chief Justice of all the High Courts by the Registry of this Court so that the High Courts would circulate the same amongst the learned Sessions Judges who, in turn, shall circulate it among the learned Magistrates so that they can remain more vigilant and diligent while exercising the power under Section 15693) Cr.P.C.

14.The learned counsel for the petitioners in support of his contentions cited the following authorities which are mentioned hereunder :-

1. **(1997) 4 SCC 241 - Krishnan and another v. Krishnaveni and another**

2. **(2001) 3 SCC 333 - Central Bureau of Investigation V. State of Rajasthan and another**
3. **(2006) 7 SCC 416 - Hamza Haji v. State of Kerala and another**
4. **(2007) 4 SCC 221 - A.V.Papayya Sastry and others v. Government of AP and others**
5. **(2012) 9 SCC 460 - Amit Kapoor v. Ramesh Chander and another**
6. **(2013) 15 SCC 624 - Urmila Devi v. Yudhvir Singh**
7. **1994 Crl. LJ 1288 - State of Kerala v. Kolakkacan Moosa Haji and others**

The above said judgments relied on the side of the revision petitioners are squarely applicable to the facts of the present case, which are decided before the latest decisions of the Hon'ble Apex Court reported in **(2014) 2 SCC 1 - Lalita Kumari V. Government of Uttar Pradesh and others** and **(2015) 6 SCC 287 - Priyanka Srivastava and another V. State of Uttar Pradesh and others.**

8. **Unreported Judgment of the Delhi High Court dated 11.09.2015 made in Crl.MC.No.3729 of 2015 - Simret Katyal V. The State of Govt. of NCT of Delhi and others.**

15.Per Contra, the learned counsel for the first respondent relied on the authorities of this Court and other High Court and the decision of the Hon'ble Supreme Court which are as follows :-

1. **(2015) 6 SCC 287 - Priyanka Srivastava and another V. State of Uttar Pradesh**
2. **1975 Crl.LJ. 994 - Nathan v. Vaithinathan and others**
3. **Manu/UP/1464/2006 - Rakesh Puri and Bhaskar Puri V. State of Uttar Pradesh and Shubhankar Chakravarthi**

The above decisions mentioned in serial number 2 and 3 are prior to the principles laid down by the Hon'ble Supreme Court in **(2014) 2 SCC 1 - Lalita Kumari V. Government of Uttar Pradesh and others,** which are not helpful to the facts of the present case in hand.

16.This Court after considering the dispute between the parties, which is classified under the category of Commercial Offences and also the complaint was preferred by the first respondent before the Judicial Magistrate only during June 2015. Even according to the averments made in the private complaint, all the allegations raised in the complaint between the parties are very much prior to three months from the date of alleged complaint.

17.In the decision reported in **(2014) 2 SCC 1 - Lalita Kumari V. Government of Uttar Pradesh and others**, the present case falls under the category of Commercial offences and the complainant has to prefer the complaint before the police authority, as per 120.6 of the judgment, the police authority has duty to conduct preliminary inquiry is not to verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence. As per 120(7) of the judgment, the police authority has to protect the rights of the accused and the complainant, a preliminary inquiry should be made time-bound and in any case it should not exceed 7 days. The fact of such delay and the causes of it must be reflected in the General Diary entry.

18.According to the principles laid down by the Hon'ble Apex Court, the complaint has to be preferred directly to the police, the police authority has to act according to the principles laid down in para 120.7, of the judgment of the Hon'ble Apex Court reported in **(2014) 2 SCC 1 - Lalita Kumari V. Government of Uttar Pradesh and others**. But, in this case, the complaint was preferred directly before the Judicial Magistrate under Section 156(3) Cr.PC, with a direction to register the FIR and to investigate the case. The learned trial Court has to necessarily follow the dictum laid down by the Hon'ble Supreme Court, as cited supra. The Judicial Magistrate before forwarding the complaint to the police or before giving direction to the police authority to register the case and to investigate the same has to necessarily follow the principles of the Hon'ble Supreme Court reported in **(2014) 2 SCC 1** (cited supra).

19.On plain reading of the order passed by the trial Court, the Judicial Magistrate simply without perusing the complaint filed under Section 156(3) Cr.PC or documents produced along with the complaint, directed the respondent police to register a case under Sections 403, 406, 408, 409, 417, 418, 420, 109 r/w.120(b) IPC and investigate and submit a report before the Court on or before 31.07.2015. It is clearly seen that the Judicial Magistrate has not applied the mind before forwarding the complaint and given direction to the police to register the FIR under Section 156(3) has not gone through the complaint and not perused the documents produced along with the complaint. The Judicial Magistrate mechanically and without perusing the complaint and documents simply directed the respondent police to register the FIR and to investigate and submit a report, which is erroneous and against the principles laid down by the Hon'ble Supreme Court in the cases cited above. Hence, the order passed by the Judicial Magistrate is not maintainable in law and it is liable to be set aside.

20.Therefore, after giving direction on 23.06.2015 directing the respondent/police to register a case under Section 156(3) Cr.PC for the offences 403, 406, 408, 409, 417, 418, 420, 109 r/w.120(b) IPC and investigate and submit a report before the Court on or before 31.07.2015, since the respondent/police had not obeyed the above said order, once again on 09.10.2015, the Judicial Magistrate insisted for compliance of the order dated 23.06.2015. This Court is of the considered view the order passed on 23.06.2015 is erroneous and without application of mind and is liable to be set aside and the same is hereby set aside. Following the above order dated 23.06.2015, the Judicial Magistrate has given another direction on 09.10.2015 which is against the principles of natural justice and is also in violation to the principles laid down by the Hon'ble Supreme Court in the cases cited above, hence the order dated 09.10.2015 is also liable to be set aside and the same is also set aside accordingly.

21.In the result, all the criminal revisions preferred by the accused 1, 7 and 8 are allowed and the docket orders passed by the learned Judicial Magistrate on 23.06.2015 and 09.10.2015, directing the third respondent/Deputy Commissioner of Police, CCB, Vepery are hereby set aside. The complainant is at liberty to prefer a complaint in the manner known to law. Consequently, connected miscellaneous petitions are closed.

03.10.2016.

Index:Yes/No
Internet:Yes/No
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To

1. The learned Judicial Magistrate, Alandur.
2. The Public Prosecutor, High Court, Madras.

G. CHOCKALINGAM, J.
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Crl.R.C.Nos.1148, 1163
and 1164 of 2016

03.10.2016.