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Crl.RC No.2087 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 16.12.2024

PRONOUNCED ON: 19.12.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.2087 of 2024
and Crl.M.P.No.16725 of 2024

R.Radhakrishnanandam

... Petitioner/Defacto complainant

Vs.

1. State rep. by its
Inspector of Police,
ALGSC TEAM-17A,
Central Crime Branch, Vepery, Chennai.
(Cr.No.617 of 2010)

... Respondent/Complainant

2. M.Palani
3. B.Nagarajan
4. P.Govindaraj
5. N.A.Thameem
6. B.Kanniappan
7. M.K.Raja
8. Loganathan
9. R.Kumari
10. Rajendran

... Respondent /Accused

PRAYER: Criminal Revision Case filed under Sections 397 r/w 401 of Cr.P.C, to to set aside the order dated 11.09.2024 passed in Crl.MP.No.55510/2024 in CC-4958/2023 before the learned Judicial Metropolitan Magistrate for exclusive trial of CCB cases (relating to cheating cases in Chennai), and CBCID Metro Cases, Chennai.



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For Petitioner : Mr.A.Senthil Manohar

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For Respondent : Mr.S.Udaya Kumar (for R1)
Government Advocate (Crl.Side)

ORDER

This Criminal Revision Case has been filed by the defacto complainant aggrieved by the order dated 11.09.2024, passed by the learned Judicial Metropolitan Magistrate for exclusive trial of CCB cases (relating to cheating cases in Chennai), and CBCID Metro Cases, Chennai, refusing to commit the case to the Court of Sessions.

2. The petitioner had lodged a complaint against the accused/respondents 2 to 10 and on investigation, the 1st respondent filed the final report on 15.05.2017 for the offences under Sections 420, 465, 467, 468, 471, 474 r/w 34 and 120B of the IPC. The facts leading to the filing of the final report may not be necessary for the purpose of deciding this revision.

3. The defacto complainant filed the petition to assist the prosecution and thereafter, filed Crl.M.P.No.55510 of 2023, stating that since the learned Magistrate has no power to impose the punishment of



life imprisonment or imprisonment for a term which may extend to ten years for the offence under Section 467 of the IPC, the learned Magistrate is not competent to try the said offence and sought for appropriate orders of the Magistrate.

4. The learned Magistrate rejected the petition stating that the schedule to the Criminal Procedure Code specifies that the offence under Section 467 of the IPC is triable by the Magistrate and if the Magistrate intends to impose higher punishment, the Magistrate may refer the case to the Chief Judicial Magistrate in terms of Section 325 (2) of the Cr.P.C.

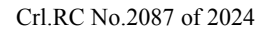
5. The learned counsel for the petitioner would submit that the maximum sentence imposed under the Criminal Procedure Code for the offence under Section 467 of the IPC, is either life imprisonment or imprisonment upto ten years; that the Magistrate is empowered to award a sentence of three years imprisonment and in the event of the Magistrate concluding that higher punishment has to be imposed, then he can refer it to the Chief Judicial Magistrate, who can impose a maximum sentence of seven years imprisonment; and that since the offence alleged by the petitioner is serious, the accused are liable to be punished for more



severe sentence and therefore, the Magistrate ought to have committed the case to the Sessions Court, which is empowered to impose the sentence prescribed for the offence under Section 467 of the IPC.

6. The learned Government Advocate (Crl. Side) *per contra* submitted that as per Section 26 and the First Schedule to the Cr.P.C., it is the Magistrate, who is empowered to try an offence under Section 467 of the IPC, though the offence is punishable with life imprisonment; that the learned single Judge of the Calcutta High Court in ***Ram Chandra Maity v. Sudhir Chandra Mondal and others***, reported in **1977 Cri LJ 481**, had noted this anomaly and had observed that this anomaly has to be rectified only by the Parliament; that the State of Madhya Pradesh had addressed this anomaly and amended the schedule to Cr.P.C., and stipulated that the offence under Section 467 of the IPC, is triable by the Sessions Court; and therefore submitted that the Courts have to follow the mandate of the Cr.P.C., and cannot make an amendment in the Schedule by a judicial order.

7. The imprisonment provided for the offence under Section 467 of the IPC is either life imprisonment or a sentence upto ten years of



8. As per Section 29(1), the Chief Judicial Magistrate cannot pass a sentence beyond a term of seven years. Therefore, if the Magistrate tries an offence under Section 467 of the IPC, the maximum sentence that can be imposed is only seven years, which is lesser than the maximum sentence provided under Indian Penal Code. Thus, there is an anomaly in this regard. There are other offences, where the maximum sentence prescribed is beyond seven years and is triable by the Magistrate which are as follows:

SECTION	OFFENCE	PUNISHMENT	TRIAL
326	Voluntarily causing grievous hurt by dangerous weapons or	Imprisonment for life, or imprisonment	Magistrate of the first class.



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SECTION	OFFENCE	PUNISHMENT	TRIAL
	means.	for 10 years and fine.	
363A	Kidnapping or obtaining the custody of a minor in order that such minor may be employed or used for purposes of begging. Maiming a minor in order that such minor may be employed or used for purposes of begging.	Imprisonment for 10 years and fine. Imprisonment for life and fine.	Magistrate of the first class. Court of Session.
377	Unnatural offences	Imprisonment for life, or imprisonment for 10 years and fine.	Magistrate of the first class.
382	Theft, after preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, in order to the committing of such theft, or to retiring after committing it, or to retaining property taken by it.	Rigorous imprisonment for 10 years and fine.	Magistrate of the first class.
386	Extortion by putting a person in fear of death or grievous hurt.	Imprisonment for 10 years and fine.	Magistrate of the first class.
389	Putting a person in fear of accusation of an offence punishable with death, imprisonment for life, or imprisonment for 10 years in order to commit extortion. If the offence be an unnatural offence.	Imprisonment for 10 years and fine. Imprisonment for life.	Magistrate of the first class Magistrate of the first class.
392	Robbery If committed on the highway between sunset and sunrise.	Rigorous imprisonment for 10 years and fine. Rigorous imprisonment for 14 years and fine.	Magistrate of the first class. Magistrate of the first class.



SECTION	OFFENCE	PUNISHMENT	TRIAL
394	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person jointly concerned in such robbery.	Imprisonment for life, or rigorous imprisonment for 10 years and fine.	Magistrate of the first class.
409	Criminal breach of trust by public servant or by banker, merchant or agent, etc.	Imprisonment for life, or imprisonment for 10 years and fine.	Magistrate of the first class..
455	Lurking house-trespass or house-breaking after preparation made for causing hurt, assault, etc.	Imprisonment for 10 years and fine.	Magistrate of the first class.
458	Lurking house-trespass or house-breaking by night, after preparation made for causing hurt, etc	Imprisonment for 14 years and fine	Magistrate of the first class.
467	Forgery of a valuable security, will, or authority to make or transfer any valuable security, or to receive any money, etc When the valuable security is a promissory note of the Central Government.	Imprisonment for life, or imprisonment for 10 years and fine. Imprisonment for life, or imprisonment for 10 years and fine.	Magistrate of the first class. Magistrate of the first class.
493	A man by deceit causing a woman not lawfully married to him to believe, that she is lawfully married to him and to cohabit with him in that belief.	Imprisonment for 10 years and fine.	Magistrate of the first class.
495	Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.	Imprisonment for 10 years and fine.	Magistrate of the first class.

9. The State of Madhya Pradesh had noticed this anomaly and amended the schedule by making the offence under Section 467 of the



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IPC triable by the Sessions Court. In the absence of any such amendment, either by the State legislature or by the parliament, this Court cannot by a judicial order hold that the case has to be tried only by the Sessions Court. It is needless to say that this anomaly has to be rectified as the maximum sentence prescribed under Indian Penal Code for the aforesaid offences can never be imposed. However, the Courts cannot rectify this anomaly by a judicial order, especially in the absence of challenge to the validity of the schedule to the Cr.P.C. The impugned order passed by the learned Magistrate does not call for any interference. Hence, the order dated 11.09.2024 passed in Crl.MP.No.55510/2024 in CC-4958/2023 by the learned Judicial Metropolitan Magistrate for exclusive trial of CCB cases (relating to cheating cases in Chennai), and CBCID Metro Cases, Chennai, is confirmed.

10. The Criminal Revision Case stands dismissed, accordingly. Consequently, the connected Criminal Miscellaneous Petition is closed.

19.12.2024

Index: Yes/No
Speaking/Non-speaking order



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Neutral citation: Yes/No.
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To
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1. The Judicial Metropolitan Magistrate
for exclusive trial of CCB cases (relating to cheating cases in
Chennai), and CBCID Metro Cases
Chennai.
2. Inspector of Police,
ALGSC TEAM-17A,
Central Crime Branch,
Vepery, Chennai.
3. The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

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Pre-delivery order in
Crl.R.C.No.2087 of 2024

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