



Crl.R.C.No.779 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 07.07.2025

PRONOUNCED ON : 10.07.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.R.C.No.779 of 2025
and Crl.M.P.Nos.11094 & 11095 of 2025

Varadarajan Kidambi @ Raj Kidambi

..... Petitioner

Vs

1. State

Rep by its Inspector of Police,
J-3 Guindy Police Station (Crime)
Chennai.
(Ref.Cr.No.578 of 2022 dt.25.08.2022)

2. Ayan Tech Solutions Pvt. Ltd.,
Rep. by its Director,
Raju Dhananjay Reddy,
3rd Block, 9th Floor, Temple Steps No.187,
Anna Salai, Little Mount,
Chennai – 600 015.
(R2 impleaded as per order dated
07.07.2025 vide Crl.M.P.No.12536 of
2025)

..... Respondents

PRAYER: Criminal Revision Case is filed under Sections 438 r/w 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records and set aside the order of taking cognizance dated 23.09.2024 and entire proceedings arising therefrom in C.C.No.1979 of 2024 on the file of the learned IX Metropolitan Magistrate, Saidapet, Chennai.



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For Petitioner : Mr.A.Ramesh
Senior Counsel
for Mr.R.Ashwin

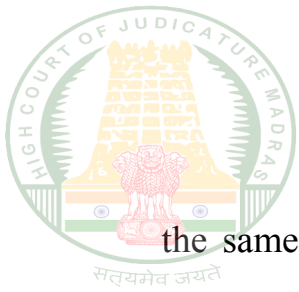
For R1 : Mr.A.Gopinath
Government Advocate (Crl. Side)

For R2 : Mr.C.Prasanna Venkatesh

ORDER

This Criminal Revision has been filed as against the order of taking cognizance dated 23.09.2024 in C.C.No.1979 of 2024 on the file of the IX Metropolitan Magistrate, Saidapet, Chennai.

2. The case of the prosecution is that, based on the complaint lodged by the second respondent, the first respondent registered an FIR in Crime No.578 of 2022 pursuant to the direction issued by the learned Magistrate under Section 156(3) of Criminal Procedure Code, alleging that the dishonest misappropriation of statutory documents belonging to Ayan Tech Solutions Pvt. Ltd, viz., the second respondent herein. It is further alleged that the promoter group entered into a strategic equity transfer agreement, through which 51% of its shares were transferred to IC Infract Solutions Pvt.Ltd. Subsequent to the said transaction, during a Board meeting held on 27.03.2020, the accused was directed to return the statutory books and records of the company. However, the accused categorically denied being in possession of



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the same. It is further alleged that on 30.03.2020, an incident involving the

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3. Pursuant to the direction issued by the learned Magistrate, the respondent registered an FIR in Crime No.578 of 2022 for the offence under Section 381 of IPC. During the course of investigation, the offence was altered to Sections 403, 408 and 420 of IPC and a final report was filed. The Trial Court, on perusal of the final report, had taken cognizance and issued summons to the accused.

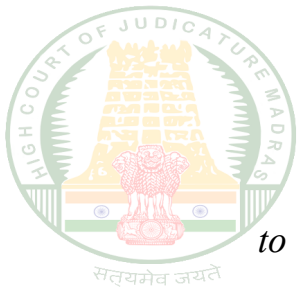
4. The learned Senior Counsel appearing for the petitioner submitted that the act of taking cognizance is not an empty formality. The essential prerequisite for taking cognizance of an offence is the judicial



application of mind by the Trial Court and its satisfaction that the allegations, if established, would constitute a cognizable offence. Therefore, it is incumbent upon the Magistrate, whether acting on a complaint or a police report, to objectively assess whether the contents disclose the commission of an offence and to form an informed opinion in that regard. At this preliminary stage, the sole judicial exercise required is to ascertain whether the evidentiary material relied upon by the prosecution prima facie discloses the commission of an offence. However, the Trial Court has taken cognizance in a mechanical manner. Though the final report discloses a prima facie case warranting cognizance, the materials produced by the prosecution do not attract the ingredients of the offences under Sections 403, 408 and 420 of IPC.

5. In support of his contention, he relied upon the Judgement of the Hon'ble Supreme Court of India in the case of **Sunil Bharati Mittal Vs. Central Bureau of Investigation** reported in **(2015) 4 SCC 609**, in which the Hon'ble Supreme Court of India held as follows :

“48. Sine Quo Non for taking cognizance of the offence is the application of mind by the Magistrate and his satisfaction that the allegations, if proved, would constitute an offence. It is, therefore, imperative that on a complaint or on a police report, the Magistrate is bound to consider the question as



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to whether the same discloses commission of an offence and is required to form such an opinion in this respect. When he does so and decides to issue process, he shall be said to have taken cognizance. At the stage of taking cognizance, the only consideration before the Court remains to consider judiciously whether the material on which the prosecution proposes to prosecute the accused brings out a prima facie case or not.

54. However, there has to be a proper satisfaction in this behalf which should be duly recorded by the Special Judge on the basis of material on record. No such exercise is done. In this scenario, having regard to the aforesaid aspects coupled with the legal position explained above, it is difficult to sustain the impugned order dated 19.03.2013 in its present form insofar as it relates to implicating the appellants and summoning them as accused persons.”

6. He further submitted that an order taking cognizance must be a speaking order, demonstrating due application of judicial mind to the facts of the case and the materials placed on record. A mere endorsement or a cryptic one-line order that fails to disclose the reasoning or the basis upon which cognizance is taken does not to meet the threshold of judicial scrutiny. In support of the said contention, he relied upon the Judgment report in **2025 SCC Online SC 208** in the case of **J.M.Laboratories and Ors Vs. State of Andhra Pradesh and Anr**, in which the Hon'ble Supreme Court of India held as



follows:

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“9. In the present case also, no reasons even for the namesake have been assigned by the learned Magistrate. The summoning order is totally a non-speaking one. We therefore find that in light of the view taken by us in criminal appeal arising out of SLP(Crl.) No.2345 of 2024 title “INOX Air Products Limited Now Known as INOX Air Products Private Limited V. The State of Andhra Pradesh”, and the legal position as has been laid down by this Court in a catena of judgments including in the cases of Pepsi Foods Ltd v. Special Judicial Magistrate, Sunil Bharti Mittal v. Central Bureau of Investigation, Mehmood UI Rehman v. Khazir mohammed Tunda and Krishna Lal Chawla v. State of Uttar Pradesh, the present appeal deserves to be allowed.

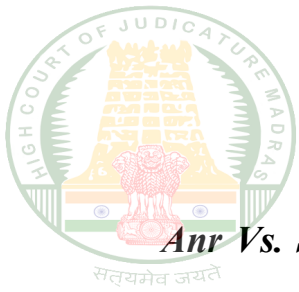
10. In the result, we pass the following order :

(i) The present appeal is allowed ;

*(ii) The impugned judgment and order dated 4h October 2023 passed by the High Court of Andhra Pradesh at Amravti in Criminal Petition No.5766 of 2023 is quashed and set aside ;
and*

(iii) The summoning order dated 19th July 2023 passed by the Trial Court in C.c.No.1051 of 2023 and the proceeding arising therefrom are also quashed and set aside”.

7. He also relied upon the Judgment of the Hon'ble Supreme Court of India reported in **(1998) 5 SCC 749** in the case of **Pepsi Food Ltd and**

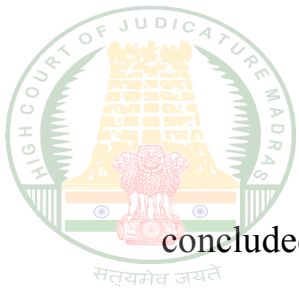


Anr Vs. Special Judicial Magistrate and Ors, in which the Hon'ble Supreme

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“Summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course, it is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of the magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in bringing charge home to the accused. It is not that the magistrate is a silent speculator at the time of recording of preliminary evidence before summoning of the accused. Magistrate has to carefully scrutinise the evidence brought on record and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or otherwise and then examine if any offence is prima facie committed by all or any of the accused.”

8. However, the Trial Court had taken cognizance by merely stating that the materials were “heard and perused”. On perusal, it was



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concluded that, for taking cognizance, offences under Sections 403, 408 and 420 of IPC are made out, and summons was issued to the accused. This extract, however, is bereft of any reasoning or reference to how the ingredients of the alleged offences are attracted from the final report. Such a mechanical and non-speaking order fails to meet the fundamental requirement of a reasoned judicial determination. The learned Senior Counsel also pointed out that, for each of the charges, no prima facie case has been made out, and the materials relied upon by the prosecution do not satisfy the essential ingredients required to constitute offences under Sections 403, 408 and 420 of IPC.

9. Heard the learned counsel appearing on either side and perused the materials available on record.

10. A perusal of the counter affidavit filed by the second respondent and also the submissions made by the learned counsel for the second respondent reveals that after completion of the investigation, the first respondent filed a final report in Crime No.578 of 2022 and the same has been taken cognizance by the Trial Court in C.C.No.1979 of 2024. The petitioner was served as Chief Executive Officer of Ayan Tech Solutions Pvt.Ltd. And its affiliated entity, Ayan Tech Inc (USA) until April 2020. During his tenure, the



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petitioner handled the financial affairs, statutory documents and operational records of both companies. Even prior to his removal in March 2020, and during the transition period before a replacement was appointed, serious financial irregularities were discovered, including unauthorised issuance of cheques to himself and others and unlawful retention of statutory documents despite multiple demands for their return. The petitioner also failed to return the original documents, such as fixed deposits receipts, the original share purchase agreement, supplemental agreement, the Memorandum of Understanding, closing original documents, auditor's due diligence report which reflected that Ayan Tech had failed to meet the performance targets as stipulated under the SPA. Further, the petitioner used some of these documents against the interest of the company, without consent, for his personal benefit.

11. A perusal of the statements of witnesses recorded under Section 161(3) of Cr.P.C. reveals that there are materials to attract the offences under Sections 403, 408 and 420 of IPC. The learned Senior Counsel for the petitioner relied upon the Judgment in the case of ***Pepsi Food Ltd and Anr Vs. Special Judicial Magistrate and Ors*** and in the case of ***Sunil Bharati Mittal Vs. Central Bureau of Investigation***. In both cases, the Hon'ble Supreme Court dealt with the issue of summoning the accused based on the private



complaints, without police investigation, and emphasized the necessity of judicial application of mind and the requirement of a reasoned order while issuing process against the accused.

12. In the case on hand, after registration of the FIR, the first respondent conducted a detailed enquiry and recorded the statements of witnesses under Section 161(3) of Cr.P.C. Thereafter, a final report was filed before the Trial Court and the same was taken cognizance by the Trial Court on the basis of the material produced along with the report. Therefore, the Judgments relied upon by the Senior Counsel for the petitioner are not applicable to the case on hand. Further, the materials on record reveal that the petitioner, during his tenure as Chief Executive Officer, has misused company cards for personal expenses, manipulated consultant charges and failed to ensure compliance with U.S. tax and immigration laws, thereby exposing the company to severe penalties. It disclose prima facie commission of offences under Sections 403, 408 and 420 of IPC. The petitioner, being the Chief Executive Officer, cannot misuse his fiduciary position to evade liability. Further, the term “servant” under Section 408 of IPC includes any person entrusted with fiduciary control or dominion over property, especially one who draws remuneration, is vested with board-sanctioned authority and has accesses



to all documents. Therefore, the Trial Court rightly had taken cognizance after

perusal of the materials and found a prima facie case made out for the offences under Sections 403, 408 and 420 of IPC. In fact, the second respondent also filed an application before the Trial Court seeking permission to assist the prosecution and to conduct further investigation based on fresh material and forensic audit trails which were not available during the initial investigation. These include : (i) the recovery of statutory registers illegally removed from the company office; (ii) seizure and forensic imaging of electronic devices used by the petitioner, such as laptop, mobiles, hard drives; (iii) verification of international fund transfers through Letters Rogatory and (iv) uncovering multiple fictitious vendor transactions and personal payouts totalling more than Rs.8 Crores.

13. The learned Senior Counsel relied upon the Judgment of the Hon'ble Supreme Court of India reported in **2025 SCC Online SC 886** in the case of ***Pramila Devi v. State of Jharkhand and another***, in which the Hon'ble Supreme Court of India, held as follows :

16. In the present case, we find that the Additional Judicial Commissioner has taken cognizance while recording a finding that –



from a perusal of the case diary and case record, a prima facie case was made out against the accused, including the Appellants. In Bhushan Kumar V. State (NCT of Delhi), (2012) 5 SCC 424, this Court held that an order of the Magistrate taking cognizance cannot be faulted only because it was not a reasoned order ; relevant paragraphs being as under :

14. Time and again it has been stated by this Court that the summoning order under Section 204 of the Code requires no explicit reasons to be stated because it is imperative that the Magistrate must have taken notice of the accusations and applied his mind to the allegations made in the police report and the materials filed therewith.

15. In Kanti Bhadra Shah v. State of W.B [(2000) 1 SCC 722 : 2000 SCC (Cri) 303] the following passage will be apposite in this context : (SCC p.726, para 12)

“12. If there is no legal requirement that the trial court should write an order showing the reasons for framing a charge, why should the already burdened trial courts be further burdened with such an extra work. The time has reached to adopt all possible measures to expedite the court procedures and to chalk out measures to avert all roadblocks causing avoidable delays. If a Magistrate is to writ detailed orders at different stages merely because the counsel would address arguments at all stages, the snail-paced progress of proceedings in trial courts would further be slowed down. We are coming across interlocutory orders of Magistrates and Sessions Judges running into several pages. We can appreciate if such a detailed order has been passed for culminating the proceedings before them. But it is quite unnecessary to writ detailed orders at other stages, such as issuing



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process, remanding the accused to custody, framing of charges, passing over to next stages in the trial.

16. *In Nagawwa v. Veeranna Shivalingappa Konjalgi [(1976) 3 SCC 736 : 1976 SCC (Cri) 507]* this Court held that it is not the province of the Magistrate to enter into a detailed discussion on the merits or demerits of the case. It was further held that in deciding whether a process should be issued, the Magistrate can take into consideration improbabilities appearing on the face of the complaint or in the evidence led by the complainant in support of the allegations. The Magistrate has been given an undoubted discretion in the matter and the discretion has to be judicially exercised by him. It was further held that : (SCC p. 741, para5)

“5. Once the Magistrate has exercised his discretion it is not for the High Court, or even this Court, to substitute its own discretion for that of the Magistrate or to examine the case on merits with a view to find out whether or not the allegations in the complaint, if proved, would ultimately end in conviction of the accused.

17. *In Chief Controller of Imports & Exports v. Roshanlal Agarwal [(2003) 4 SCC 139 : 2003 SCC (Cri) 788]* this Court, in para 9, held as under : (SCC pp.145-46)

“9. In determining the question whether any process is to be issued or not, what the Magistrate has to be satisfied is whether there is sufficient ground for proceeding and not whether there is sufficient ground for conviction. Whether the evidence is adequate for supporting the conviction, can be determined only at the trial and not at the stage of inquiry. At the stage of issuing the process to the accused, the Magistrate is not required to record reasons.

This question was considered recently in U.P. Pollution Control



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Board v. Mohan Meakins Ltd. [(2000) 3 SCC 745] and after noticing the law laid down in Kanti Bhandra Shah vs. State of W.B [(2000) 1 SCC 72 : 2000 SCC (Cri) 303] it was held as follows : (UP Pollution case [(2000) 3 SCC 745], SCC p. 749, para 6)

“6. The legislature has stressed the need to record reasons in certain situations such as dismissal of a complaint without issuing process. There is no such legal requirement imposed on a Magistrate for passing detailed order while issuing summons. The process issued to the accused cannot be quashed merely on the ground that the Magistrate had not passed a speaking order ”.

18. In U.P.Pollution Control Board v. Bhupendra Kumar Modi [(2009) 2 SCC 147 : (2009) 1 SCC (Cri) 679] this Court, in para 23, held as under : (SCC p.154)

“23. It is a settled legal position that at the stage of issuing process, the Magistrate is mainly concerned with the allegations made in the complaint or the evidence led in support of the same and he is only to be prima facie satisfied whether there are sufficient grounds for proceeding against the accused.

19. This being the settled legal position, the order passed by the Magistrate could not be faulted with only on the ground that the summoning order was not a reasoned order”.

14. Thus, it is clear that the Trial Court, while taking cognizance



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and issuing summons, is required to apply its judicial mind only to determine whether a prima facie case has been made out for summoning the accused persons. Therefore, the Trial Court is not required to consider the defence version or materials or arguments nor is he required to evaluate the merits of the materials or evidence of the complainant, because the Trial Court must not undertake the exercise to find out at this stage whether the materials would lead to conviction or not. It is true that the need to record reasons in certain situations such as dismissal of a complaint without issuing process. There is no such legal requirement imposed while passing detailed order while issuing summons. Further, the process issued to the accused cannot be quashed merely on the ground that the Trial Court had not passed a speaking order. Therefore, the Trial Court's duties are only to see whether there is material forthcoming to indicate commission of alleged offence or not and whether to take cognizance or not. The Trial Court is not empowered to go into the veracity of the material at that time. Therefore, the order of taking cognizance dated 23.09.2024 has been passed in accordance with law and as such, does not warrant interference by this Court.

15. In view of the above, this Court finds no infirmity or illegality in the order of taking cognizance dated 23.09.2024 in C.C.No.1979 of



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2024 on the file of the learned IX Metropolitan Magistrate, Saidapet, Chennai.

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The personal appearance of the petitioner is dispensed with and he shall be represented by a counsel after filing appropriate application. However, the petitioner shall be present before the Court at the time of furnishing of copies, framing charges, questioning under Section 351 of BNSS and at the time of passing judgment.

16. Accordingly, this Criminal Revision Case stands dismissed.

Consequently, connected miscellaneous petitions are closed.

10.07.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
Lpp
To

1. The IX Metropolitan Magistrate,
Saidapet, Chennai.

2. The Inspector of Police,
J-3 Guindy Police Station (Crime)
Chennai.

3. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.
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Pre-delivery order in
Crl.R.C.No.779 of 2025

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