

Crl.R.C.(MD)No.1252 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
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Reserved on : 22.04.2025

Pronounced on : 04.08.2025

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.1252 of 2024

Vivek Surana

...Petitioner/
Defacto
Complainant

Vs.

1.State of Tamil Nadu rep. by
The Inspector of Police,
District Crime Branch,
Thoothukudi.
(Crime No.26 of 2023)

... Respondent No.1/
Complainant

2.Chandrasekaran

3.Rajagopal

4.Mayandi

5.Sivaram

6.Krishnan



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7.Gnanaselvam

8.Gunasekaran

... Respondent No.2 to
10/Accused

Prayer : This Criminal Revision Case filed under Section 438 r/w 442 B.N.S.S., to call for the records in judgment passed in C.C.No.12 of 2024 on the file of Judicial Magistrate No.IV, Thoothukudi, dated 30.08.2024 by in which the trial Court convicted the accused Nos.1, 2, 4, 5, 6, 8 and 9 under Section 406 IPC with Rs.10,000/- as fine and days to be set off and to set aside the same and pass an order enhancing the punishment of accused Nos.1, 2, 4, 5, 6, 8 and 9.

For Petitioner : Mr.G.R.Balakumar

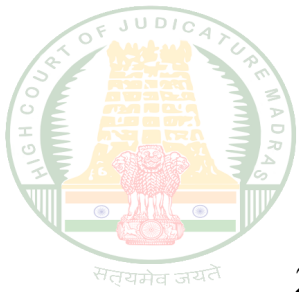
For R1 : Mrs.M.Aasha
Government Advocate (Crl. Side)

For R2 & R3 : Mr.Lakshmi Gopinathan
for Mr.M.Prabhu

For R4, R5, R7
& R8 : No appearance

ORDER

The Criminal Revision is directed against the judgment made in C.C.No.12 of 2024 dated 30.08.2024 on the file of the Court of the Judicial Magistrate No.4, Thoothukudi.



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2. This case is a classical example that startly illustrates in a blatant mockery of justice, highlighting significant procedural lapses and questionable judicial decisions.

3. The case of the prosecution is that the revision petitioner/complainant is running a finance business along with his family members, that the revision petitioner had acquaintance with the second respondent/first accused (hereinafter will be referred as 'first accused') from 2008 onwards, who was owning a lorry and was acting as an agent for getting vehicle loans for lorries from financiers, that the first accused had approached the revision petitioner and requested to extend credit facilities for purchase of lorries for other persons, that the revision petitioner based on the assurance of the first accused had travelled to Kovilpatti and advanced loan amounts for purchasing lorries, that the revision petitioner had advanced several lakhs of rupees to the first accused, who in turn advanced the said amounts for purchasing lorries at a higher loan rates and was acting as an agent for the revision petitioner, that the first accused, after earning substantial amounts of money from the higher interest, he along with his son third respondent/second accused (hereinafter will be



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referred as 'second accused') had started their own finance business in the name of 'R.G.Ravikumar Auto Consulting and Finance' and continued to act as the finance agent of the revision petitioner, that the accused 1 and 2 generally used to collect original documents pertaining to the lorries and keep it under their custody and after repayment of the entire loan amount, the revision petitioner used to issue Form 35 by affixing their rubber stamp seal, signature and No Objection letter, that the accused 1 and 2 have also requested the revision petitioner to advance loans based on property documents, that the revision petitioner had advanced vehicle loans for a total of 73 lorries under the assurance of the accused 1 and 2, that the accused 1 and 2 remained very evasive around the end of the year 2022 and failed to repay monthly loan amount, which was due for more than 20 lorries, that the revision petitioner doubting the genuineness of the accused 1 and 2 had visited Kovilpatti and enquired with the officials in Regional Transport Office (RTO), Kovilpatti and came to understand that he was cheated and for 13 lorries which the revision petitioner had advanced loan, Form 35 and No Objection Letter were created by the accused 1 and 2 by affixing the forged rubber stamp of the revision petitioner and forged signature of the revision petitioner, that the revision

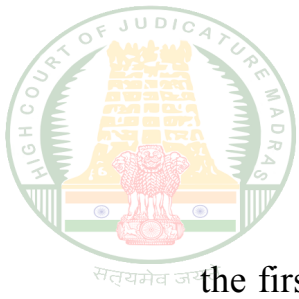


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petitioner had been cheated to the tune of Rs.45,31,700/- for 13 lorries, that the accused 1 and 2 had also failed to furnish accounts on a weekly basis and swindled money to the tune of Rs.20 lakhs and that therefore the revision petitioner was constrained to lodge a complaint.

4. On the basis of the complaint lodged by the revision petitioner, FIR came to be registered in Crime No.26 of 2023 on 22.06.2023 against the accused 1 and 2 for the alleged offences under Sections 406, 420, 465, 468, 471, 472 and 120B IPC. During investigation, the first respondent police came to understand that the accused 1 and 2 had conspired with the accused 3 to 10 and had fabricated Form 35 and No Objection letter by forging the signatures of the revision petitioner and by fraudulently creating the revision petitioner's rubber stamp and submitted the same to the Regional Transport Office (RTO) for removing hypothecation and that the accused, who have acted in conspiracy, have created a fake E-mail ID in the name of the revision petitioner "viveksuranasons@gmail.com" and sent the forged documents to the Regional Transport Office (RTO) and removed hypothecation from the registration certificate and hence, they filed a report adding the other accused. After completing the investigation,

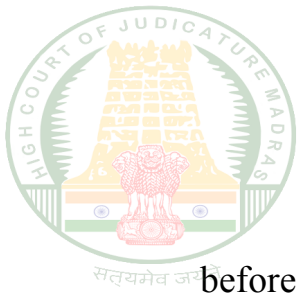


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the first respondent police has laid a final report against 9 accused for the alleged offences under Sections 406, 420, 465, 468, 471, 472 and 120B IPC and the case was taken on file in C.C.No.12 of 2024 on the file of the Court of the Judicial Magistrate No.4, Thoothukudi.

5. It is evident from the records that on the first hearing date on 04.03.2024, the accused 1 to 6, 8 and 9 appeared before the concerned Court and vakalat came to be filed for the accused 3, 8 and 9 and summons sent to the 7th accused was pending and the case was adjourned to 17.04.2024. On 17.04.2024, the accused 1, 2, 4, 5 and 6 appeared before the concerned Court and the accused 3, 8 and 9 have not turned up and petition under Section 317 Cr.P.C. came to be filed and allowed and vakalat came to be filed for the accused 1 and 2 and that summons sent to the 7th accused was shown to be pending and the case was adjourned to 21.06.2024. On 21.06.2024, the accused 1, 2, 4, 5 and 6 appeared before the concerned Court and for the absence of the accused 3, 8 and 9 petition under Section 317 Cr.P.C. came to be filed and allowed and by showing that summons sent to the 7th accused was pending, the case was adjourned to 02.07.2024. On 02.07.2024, all the accused except 7th accused appeared



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before the concerned Court and by showing that summons to the 7th accused was pending, the case was adjourned to 24.07.2024 and on 24.07.2024, except third accused all other accused appeared before the concerned Court and by showing the pendency of the summons sent to the 7th accused, the case was again adjourned to 30.08.2024. It is more important to refer what had happened on 30.08.2024 recorded in the notes paper hereunder:-

“A7 S/P A3 Absent 355 BNSS A1 A2 A4 to A6 A8 A9

Present Split up Petition Filed Allowed Admission Petition

*Filed Allowed Sentenced to pay Fine Rs.10,000 each and
days to be Set off”*

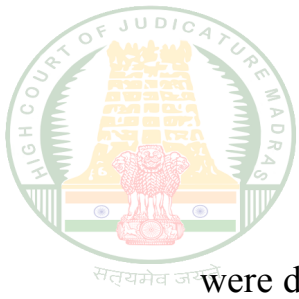
6. It is pertinent to note that the learned Magistrate has passed the impugned judgment on 30.08.2024, which is written in Tamil. In the impugned judgment, the learned Magistrate has stated that after the appearance of the accused 1, 2, 4, 5, 6, 8 and 9, copies came to be furnished to them under Section 207 Cr.P.C. and subsequently the case as against the accused 3 and 7 was ordered to be split up and that the case was taken on file in C.C.No.485 of 2024 and the case was proceeded as



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against the accused 1, 2, 4, 5, 6, 8 and 9. The learned Magistrate has further stated that after giving sufficient time and after hearing both the sides and on perusal of records, since there is no *prima facie* case for framing charges for the offences under Sections 420, 465, 468, 471, 472 and 120B IPC as against the first accused, under Section 420 and 120B IPC as against the second accused and under Section 420, 465, 468, 471 and 120B IPC as against the accused 4, 5, 6, 8 and 9 and since there existed sufficient ground for the commission of offence under Section 406 IPC, charges came to be framed for the offence under Section 406 IPC as against the accused 1, 2, 4, 5, 6, 8 and 9 and that since the said accused had denied the charges and pleaded not guilty, examination of the prosecution side witnesses was ordered. The learned Magistrate has further stated that the accused 1, 2, 4, 5, 6, 8 and 9 have appeared and filed a petition admitting their guilt and upon perusing the documents, he has come to a decision that the accused are found guilty for the offence under Section 406 IPC. It has been further stated that after finding guilty, they were questioned about the punishment to be imposed under Section 248(2) Cr.P.C. and all the accused have stated that they are poor and they committed mistakes without knowing the same, that their family members



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were depending on them and that they may be imposed lesser punishment.

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It has been further stated that the learned Magistrate accepting their version decided to impose lesser sentence in the interest of justice. The learned Magistrate has finally imposed the punishment by levying fine of Rs.10,000/- on all the accused and in default, to undergo one week simple imprisonment and further ordered to set off the imprisonment period undergone by the accused i.e., 64 days by the first accused, 46 days by the fifth accused, 16 days by the sixth accused and 7 days by the fourth accused. This Court is constrained to observe that the manner in which the case was conducted and the judgment was passed reveals a clear miscarriage of justice at the hands of the learned Magistrate at every stage of the case.

7. This Court has called for the entire material as well as immaterial records from the concerned Court. In pursuance of the same, records were sent to this Court. But on perusal of the records, after noticing that the documents to show that copies of the records were supplied to the accused under Section 207 Cr.P.C., framing of charges, plea of the accused and the split up petition allegedly filed and allowed, were missing, directed the

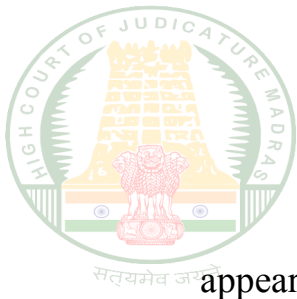


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Registry to get those documents. But the learned Magistrate now holding the post of Judicial Magistrate No.4, Thoothukudi, has submitted the records relating to the split up case in C.C.No.485 of 2024 and again when the missing records were called for, the learned Magistrate submitted a report stating that copies of documents have not been furnished to the accused and charges were not framed in the case of C.C.No.12 of 2024 and C.C.No.485 of 2024. As already pointed out, the learned Magistrate, in the impugned judgment, has specifically observed that he has proceeded to frame charges only for the offence under Section 406 IPC and decided not to frame charges for the other offences.

8. Admittedly, summons sent to the 7th accused was not served and all the hearings above referred, it has been shown that service to 7th accused is pending. As already pointed out, though the learned Magistrate has stated that split up petition filed and allowed, the same does not find place in the entire records. Moreover, the learned Magistrate has not referred the Crl.M.P. number or the nature of the order that came to be passed in the split up petition. The learned counsel appearing for the revision petitioner and the learned Government Advocate (Criminal Side)



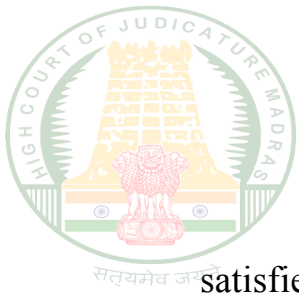
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appearing for the first respondent would submit that no notice was given to them in the split up petition or in the admission petition allegedly filed by the accused.

9. It is pertinent to note that a criminal case can be split up under certain circumstances, such as when some accused persons are absconding or their presence cannot be secured within a reasonable time. The Court may also deem it necessary to split the case in the interest of justice or if an accused disrupts Court proceedings. However, the Court must be satisfied that splitting the case will not prejudice either the prosecution or the attending accused. Mere absconding is insufficient; the Court must record its reasons for splitting the case, ensuring that the accused's presence cannot be secured.

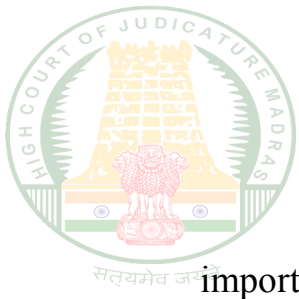
10. In the case of ***S.Mujibar Rahman Vs. The State rep. by Inspector of Police and another*** reported in ***2023 LiveLaw (SC) 1016***, when the order of the High Court ordering split up a case was challenged, the Hon'ble Supreme Court, by observing that the High Court has not considered two important aspects that the learned Magistrate was not



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satisfied that the police had made sufficient efforts to procure the presence of all the accused and that the learned Magistrate has already ordered for further investigation, set aside the order and restored the order of the learned Magistrate in rejecting the plea for splitting up of the case. Just because, Non-Bailable Warrant (NBW) was pending for some time, that by itself is not a reason or ground to split up the case as against that accused. As rightly observed by the Hon'ble Supreme Court, the Magistrate must be satisfied that the police had taken sufficient steps to secure the absconding accused and despite their efforts, they are unable to procure the presence of the accused and only in that fact situation, split up can be ordered for the reason that Non-Bailable Warrant (NBW) is pending against one or some of the accused for very long time. In the case on hand, admittedly, the case was taken on file on 08.01.2024 and summons sent to the 7th accused was shown to be pending for four hearings and on the fifth hearing, the case was split up as against 7th accused, along with third accused. More importantly, on the first hearing, the 3rd accused has entered into appearance personally and also through counsel by filing vakalat and thereafter for the next two hearings, he remained absent and appeared for the hearing on 02.07.2024 and again absented on 24.07.2024 and on the

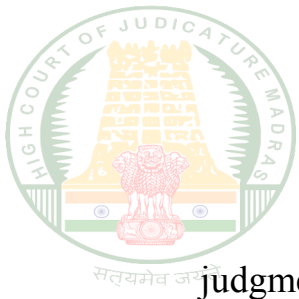


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important day i.e., on 30.08.2024. It is pertinent to note that the third accused has filed applications through his counsels to condone his absence under Section 317 Cr.P.C. and the same came to be allowed and most importantly, on 30.08.2024 also. As already pointed out, since the split up petition is not available in the records, it is not known as to what were the reasons canvassed by the other accused for splitting up the case as against the accused 3 and 7 and what were the reasons assigned by the learned Magistrate to split up the case as against the accused 3 and 7 and to proceed with the other accused. The learned Magistrate has also not specified the reasons in the impugned judgment. In the note papers, he mentioned that split up petition was filed and allowed and he has not even referred about the filing of the split up petition and allowing the same in the impugned judgment. As rightly contended by the learned counsel appearing for the revision petitioner as well as the learned Government Advocate (Criminal Side) appearing for the first respondent, in the absence of any valid reasons or grounds, the orders splitting up the case as against the accused 3 and 7 at the very beginning, cannot be sustained.

11. As already pointed out, the learned Magistrate in the impugned

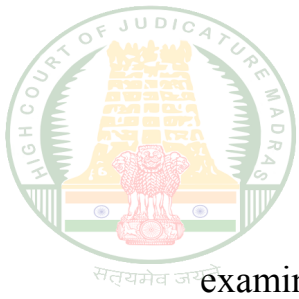


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judgment has referred about the furnishing of copies of under Section 207 Cr.P.C. and hearing of both the parties and framing of charges. However, the notes papers lack any mention of these crucial steps. As already pointed out, the learned Magistrate now holding the charge of the said Court has stated that copies were not furnished and charges were not framed. It is pertinent to note that charge sheet came to be filed for the offences under Sections 406, 420, 465, 468, 471, 472 and 120B IPC as against the first accused, under Sections 406, 420 and 120B IPC as against the second accused and under Sections 406, 420, 465, 468, 471 and 120B IPC as against the accused 3 to 9 but the learned Magistrate in the impugned judgment has stated that he framed charges only for the offence under Section 406 IPC as against the accused 1, 2, 4, 5, 6, 8 and 9 and since there are no *prima facie* materials, charges for other offences were not framed. Since the charge papers were not available, it is not known on what basis the learned Magistrate refused to frame charges for the offences under Sections 420, 465, 468, 471, 472 and 120B IPC.

12. As rightly contended by the learned Government Advocate (Criminal Side), the first respondent police, during investigation,



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examined 43 witnesses and collected 24 documents and at their instance, expert opinions came to be obtained. The learned counsel appearing for the revision petitioner as well as the learned Government Advocate (Criminal Side) appearing for the first respondent would submit that the prosecution has produced ample materials against the accused and even a cursory perusal of the statements of the witnesses and the documents would suggest that there existed more than sufficient materials to frame charges against the accused for all the offences. But the learned Magistrate for the reasons best known to him has chosen to frame charges only for the offence under Section 406 IPC and dropped the other offences. No doubt, a Full Bench of the Hon'ble Supreme Court in ***Bhawna Bai Vs. Ghanshyam and others*** reported in ***AIR 2020 SC 554*** has reiterated the legal position that trial Judge is not required to record detailed reasons for framing of charges and the relevant passages are extracted hereunder:-

“12. ... At the time of framing the charges, only prima facie case is to be seen; whether case is beyond reasonable doubt, is not to be seen at this stage. At the stage of framing the charge, the court has to see if there is sufficient ground for proceeding against the accused. While evaluating the materials, strict standard of proof is not required; only prima facie case against the accused is



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to be seen.

.....

16. ... The order dated 12.12.2018 framing the charges is not a detailed order. For framing the charges under Section 228 CrI.P.C., the judge is not required to record detailed reasons. As pointed out earlier, at the stage of framing the charge, the court is not required to hold an elaborate enquiry; only prima facie case is to be seen. As held in Knati Bhadra Shah and another v. State of West Bengal (2000) 1 SCC 722, while exercising power under Section 228 CrI.P.C., the judge is not required record his reasons for framing the charges against the accused.”

13. But at the same time, when discharging an accused, the Magistrate must consider the case records and documents, and after hearing both parties, if convinced that there is no ground for presuming that the accused has committed the offences, the charges are groundless, discharge the accused, recording his reasons for the same. In the case of ***R.S.Mishra Vs. State of Orissa and others*** reported in ***AIR 2011 SC 1103***, the Hon'ble Apex Court has observed,

“19. It is also to be noted that a discharge order is passed on an application by the accused on which the accused and the prosecution are heard. At the stage of



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discharging an accused or framing of the charge, the victim does not participate in the proceeding. While framing the charge, the rights of the victim are also to be taken care of as also that of the accused. That responsibility lies on the shoulders of the Judge. Therefore, on the analogy of a discharge order, the Judge must give his reasons atleast in a nutshell, if he is dropping or diluting any charge, particularly a serious one as in the present case. It is also necessary for the reason that the order should inform the prosecution as to what went wrong with the investigation. Besides, if the matter is carried to the higher Court, it will be able to know as to why a charge was dropped or diluted.

20. The observations of this Court in the case of State of Bihar Vs. Ramesh Singh [AIR 1977 SC 2018] / [1977 (4) SCC 39] are very apt in this behalf. A bench of two Judges of this Court has observed in that matter that at the initial stage of the framing of a charge, if there is a strong suspicion/evidence which leads the Court to think that there is ground for presuming that the accused has committed an offence, then it is not open to the Court to say that there is no sufficient ground for proceeding against the accused. The Court referred to the judgment of a bench of three Judges in Nirmaljit Singh Hoon Vs. State of West Bengal [1973 (3) SCC 753], which in turn referred to an earlier judgment of a bench of four Judges in



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Chandra Deo Singh Vs. Prokash Chandra Bose [AIR 1963 SC 1430], and observed as follows in para 5:-

"5.In Nirmaljit Singh Hoon v. State of West Bengal - Shelat, J. delivering the judgment on behalf of the majority of the Court referred at page 79 of the report to the earlier decisions of this Court in Chandra Deo Singh v. Prokash Chandra Bose- where this Court was held to have laid down with reference to the similar provisions contained in Sections 202 and 203 of the Code of Criminal Procedure, 1898 "that the test was whether there was sufficient ground for proceeding and not whether there was sufficient ground for conviction, and observed that where there was prima facie evidence, even though the person charged of an offence in the complaint might have a defence, the matter had to be left to be decided by the appropriate forum at the appropriate stage and issue of a process could not be refused".

Illustratively, Shelat, J., further added "Unless, therefore, the Magistrate finds that the evidence led before him is self- contradictory, or intrinsically untrustworthy, process cannot be refused if that evidence makes out a prima facie case".(emphasis supplied) Further, as observed later in paragraph 6 of a subsequent judgment of this Court in Niranjana Singh Vs. Jitendra Bhimraj [1990 (4) SCC 76], at the stage of the framing of the charge, the



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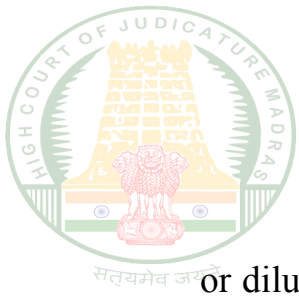


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Judge is expected to sift the evidence for the limited purpose to decide if the facts emerging from the record and documents constitute the offence with which the accused is charged. This must be reflected in the order of the judge.

21. Thus it cannot be disputed that in this process the minimum that is expected from the Judge is to look into the material placed before him and if he is of the view that no case was made out for framing of a charge, the order ought to be clear and self-explanatory with respect to the material placed before him.”

14. Although the aforementioned judgment pertains to sessions cases, the principle can be applied to warrant cases as well. The key difference lies in the Magistrate's consideration: under Section 239 Cr.P.C., whether charges are groundless, and under Section 227 Cr.P.C., whether there's sufficient ground for proceeding. Notably, both sections mandate that upon discharge, the Magistrate must record reasons. In the present case, the learned Magistrate declined to frame charges for major offenses without assigning detailed reasons, merely stating that there were no prima facie materials. In ***R.S. Mishra's*** case, referred above, the Hon'ble Supreme Court emphasized that while Section 227 Cr.P.C. requires recording reasons for discharge, even when charges are dropped



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or diluted under Section 228 Cr.P.C., some minimal reasoning is expected, reflecting consideration of the record.

15. Although the learned Magistrate claimed to have heard both sides, the learned Government Advocate (Criminal Side) would point out that the note papers lack any indication that the prosecution was heard regarding splitting the case or framing charges. This omission suggests that the Magistrate failed to comply with Sections 207, 239, and 240 Cr.P.C., which is starkly at variance with the observations made in the impugned judgment.

16. In the case on hand, as already pointed out, the learned Magistrate has convicted the accused on the basis of the plea of guilty made by them. The concept of plea bargaining inserted as Chapter XXIA vide Act of 2006 and Chapter XXIII in BNSS, as it involves the accused, victim and police, is a negotiation process where the accused agreed to plead guilty to a lesser charge or to a reduced sentence in exchange for certain concession from the prosecution wherein the victims perspective is also considered. In the case on hand, the accused have filed simple



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admission petition without invoking plea bargaining under the relevant Chapter. The learned Magistrate disposed of these petitions with a one-word order 'allowed'. More importantly, it is pertinent to note that neither the accused nor the Court has given any notice to the first respondent police or to the Additional Public Prosecutor attached to the said Court, regarding the filing of the admission petition.

17. As per provisions of Sections 240 and 241 Cr.P.C. where the Magistrate frames the charges, the charge so framed has to be read over and explained to the accused and the accused is required to be asked whether he pleads guilty of the offence charged or claims to be tried and if the accused pleads guilty, the Magistrate has to record the plea and thereafter decide whether or not to convict the accused. If however the accused does not plead guilty or the learned Magistrate does not act on his plea, he must fix a date for the examination of the witnesses i.e., trial of the case.

18. The Hon'ble Supreme Court in *Ratilal Bhanji Mithani Vs. The State of Maharashtra and others* reported in *AIR 1979 SC 94* has



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observed that the trial in a warrant case starts with the framing of charge; prior to it, the proceedings are only an enquiry and after the framing of charges, if the accused pleads not guilty, the Magistrate is required to proceed with the trial to a logical end and once a charge is framed in a warrant case, instituted either on complaint or a police report, the Magistrate has no power under the Code to discharge the accused, and thereafter, he can either acquit or convict the accused unless he decides to proceed under Section 325 and 360 of the Code of Criminal Procedure.

19. After framing of charges and ordering for commencement of trial, though the accused can plead guilty at any time, the Magistrate cannot convict the accused only on the plea of guilty but he can take into account the plea of guilty made by the accused apart from the evidences available in the case. In the case on hand, as already pointed out, after framing of charges and ordering for commencement of trial, even according to the learned Magistrate, the accused have filed the admission petition which came to be allowed by him. Even assuming for arguments sake that the learned Magistrate has necessary power and jurisdiction to impose conviction only on the basis of the plea of guilty made by the



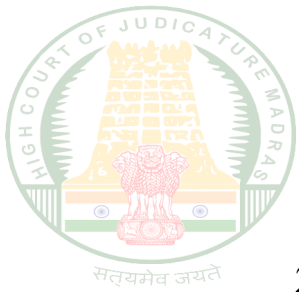
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accused after framing of charges, it is settled law that the punishment should be commensurate with gravity of offences. In the case on hand, as already pointed out, the learned Magistrate has awarded the imprisonment for the days the accused had undergone and that too for the accused 1, 4, 5 and 6 and no imprisonment was awarded for the other accused 2, 8 and 9 but levied a fine of Rs.10,000/- for each of the accused.

20. It is the specific case of the revision petitioner that the accused had cheated him to the tune of Rs.45,31,700/- in respect of lorry finance and swindled money to the tune of Rs.20 lakhs. The first respondent police after investigation has found that the accused have cheated the revision petitioner to the tune of some lakhs of rupees but the learned Magistrate has neither considered the above nor invoked Section 357 Cr.P.C.

21. As aptly contended by the learned counsel appearing for the revision petitioner, the first accused and his son, second accused allegedly masterminded the entire incident. However, the learned Magistrate failed to consider the gravity and seriousness of the offences attributed to them, instead equating with other accused, meted out similar punishment.



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22. As per the revision petitioner and prosecution, accused 1 and 2, who run finance companies, claimed poverty in their admission petitions and sought lenient punishment. The learned Magistrate accepted their claim and imposed a lenient sentence. However, even if the accused admitted guilt, this alone does not justify reduced punishment. The sentence must be proportionate to the crime, considering its impact on society and the ends of justice.

23. Section 354(4) of the Code of Criminal Procedure pertains to the court's obligation to provide reasons for sentencing. Specifically, it mandates that if a court convicts someone for an offense punishable with imprisonment of one year or more but imposes a sentence of less than three months, the court must record its reasons for doing so, unless the sentence is to the rising of the court or the case was tried summarily. This section ensures transparency and accountability in sentencing decisions, particularly when there's a significant disparity between the potential and actual sentence. Section 354(4) applies when the conviction is for an offense that carries a potential sentence of at least one year of imprisonment. If the court, in such cases, decides to impose a sentence of



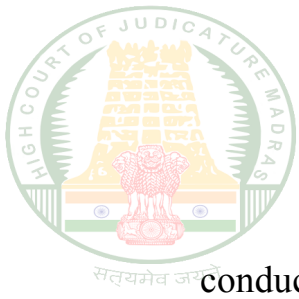
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less than three months, it needs to explicitly state the reasons for this decision in the judgment. The purpose of this section is to prevent arbitrary or inconsistent sentencing practices. It ensures that the court's reasoning for imposing a lighter sentence than what is normally prescribed for the offense is clear and justifiable. In the present case, the learned Magistrate imposed sentences of 64 days, 46 days, 16 days, and 7 days on accused No. 1,4,5 and respectively, without imposing any sentence on accused No. 2, 8, and 9. Notably, the Magistrate did not record any reasons for imposing sentences below three months, as mandated under Section 354(4).

24. As already pointed out, the present Magistrate has submitted a report stating that records pertaining to the split-up petition, orders, and charge-framing papers are not available in the case records. It is shocking to note that the learned Magistrate who passed the impugned judgment appears to have proceeded as if these records were available.

25. Considering the above, this Court has no hesitation in holding that the learned Magistrate disregarded mandatory requirements,

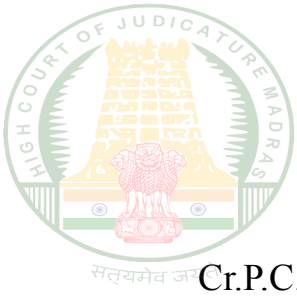


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conducting proceedings in a manner that favored the accused, and passed the impugned judgment. This case clearly exhibits a miscarriage of justice, rendering the proceedings a mockery. The patent illegalities and irregularities are self - evident from the records. Consequently, this Court has no option but to hold that the impugned judgment is legally unsustainable and liable to be set aside. This Court is compelled to direct the Registry to place this judgment before the Hon'ble Chief Justice for consideration of appropriate action against the learned Magistrate, if deemed necessary.

26. In the result, this Criminal Revision Case stands allowed and the impugned judgment dated 30.08.2024 passed in C.C.No.12 of 2024 is hereby set aside. The learned Judicial Magistrate No.4, Thoothukudi is directed to restore the case in C.C.No.12 of 2024 to his file. The first respondent police is directed to serve summons to the 7th accused immediately and on such service of summons within the reasonable time, the learned Judicial Magistrate No.4, Thoothukudi is directed to club both the cases in C.C.No.12 of 2024 and C.C.No.485 of 2024 and to proceed with the cases commencing with the supply of copies under Section 207



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Cr.P.C. In case of non-service of summons to the 7th accused within the reasonable time, the learned Judicial Magistrate No.4, Thoothukudi is directed to split up the case only as against the 7th accused and to proceed with the case as against the remaining accused including the third accused.

04.08.2025

NCC :yes/No
Index :yes/No
Internet:yes/No
csm

To

- 1.The Registrar (General),
Madurai Bench of Madras High Court,
Madurai.
- 2.The Judicial Magistrate No.4,
Thoothukudi.
- 3.The Inspector of Police,
District Crime Branch,
Thoothukudi.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

csn

Pre-Delivery Order made in
Crl.R.C.(MD)No.1252 of 2024

Dated : 04.08.2025