



Crl.R.C(MD)No.901 of 2024

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **07.01.2026**

CORAM

THE HONOURABLE **MR.JUSTICE MOHAMMED SHAFFIQ**

CRL.R.C.(MD)No.901 of 2024

and

Crl.M.P.(MD)No.9992 of 2024

1.Karthik @ Karthik Prakash@Ondiveeran

2.Sugumar

... Petitioners

vs.

The Sate of Tamil Nadu,
Represented through its,
Inspector of Police,
Bodinaickanur Police Station,
Theni District.
Crime No.493 of 2013.

... Respondent

PRAYER: Criminal Revision Petition is filed under Section 438 r/w 442 of BNSS, 2023, to call for the records and set aside the judgment passed in C.A.No.124 of 2023, dated 02.09.2024 by the learned Additional District (Fast Track) Court, Theni confirmed the conviction passed in S.C.No.150 of 2015, dated 04.09.2023 by the learned Assistant Session Cum Chief Judicial Magistrate, Theni and allow this Criminal Revision Petition.



Crl.R.C(MD)No.901 of 2024

For Petitioners : Mr.C.Christopher

For Respondent : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

ORDER

Heard Mr.C.Christopher, learned Counsel for Revision Petitioners and Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor for Respondent.

2. The present Criminal Revision Petition has been filed to set aside the judgment passed in C.A.No.124 of 2023, dated 02.09.2024 by Additional District (Fast Track) Court, Theni confirmed the conviction passed in S.C.No.150 of 2015, dated 04.09.2023 by Assistant Session Cum Chief Judicial Magistrate, Theni primarily on the ground that impugned order suffers from violation of principles of natural justice.

3. At the outset, it is made clear that I do not propose to examine the merits of the case and hence, I do not propose to advert to the findings rendered by the Courts below nor do I intend to examine to



Crl.R.C(MD)No.901 of 2024

venture to examine the legality or correctness of the ultimate conclusion, but propose to confine the challenge to the impugned judgment on the ground of violation of principles of natural justice. Having said that, for the purpose of a broad overview, I shall set out very briefly the facts.

4. The case of prosecution is that 1st petitioner/A1 was in a relationship with one Subashini. Subashini's marriage was fixed with one Venkatesan, brother of P.W.1. On 17.10.2013 at 7.30 PM, 1st petitioner/A1 came in a motor bike along with 2nd petitioner/A2 and waylaid P.W.1. While 2nd petitioner/A2 caught hold of P.W.1, 1st petitioner/A1 stabbed P.W.1 with a knife on his stomach, back, right hand elbow and finger and caused injuries. On the complaint given by P.W.1, a case was registered in Crime No.493 of 2013 for offences under Section 341, 324 and 307 of IPC against petitioners/A1 and A2. Thereafter, offences were altered to Sections 120(b), 341, 342, 307, 307 r/w 34 of IPC. On completion of investigation, respondent Police laid a charge sheet arraigning 1st petitioner's mother as A3 and the same was taken on file in S.C.No.150 of 2015 on the file of Assistant Sessions cum Chief Judicial Magistrate, Theni. All the accused were acquitted by trial Court of the offence under Section 120 (b) IPC and further acquitted



Crl.R.C(MD)No.901 of 2024

the petitioner's mother of all offences. Trial Court convicted the petitioners for offences under Sections 307, 341, 342 and 307 r/w 34 of IPC and sentenced them as follows:

(i) 1st petitioner/A1 has to undergo one month simple imprisonment for offence under Section 341 of IPC;

(ii) 1st petitioner/A1 has to undergo 7 years rigorous imprisonment and to pay a fine of Rs.1000/-, in default, to undergo one month simple imprisonment for offence under Section 307 of IPC;

(iii) 2nd petitioner/A2 has to undergo one month simple imprisonment for offence under Section 341 of IPC;

(iv) 2nd petitioner/A2 has to undergo one month simple imprisonment for offence under Section 342 of IPC;

(v) 2nd petitioner/A2 has to undergo 7 years rigorous imprisonment and to pay a fine of Rs.1000/-, in default, to undergo one month simple imprisonment for offence under Section 307 r/w 34 of IPC.

4.1. Aggrieved by the judgment of the Trial Court, 1st petitioner preferred an appeal before Additional District (Fast Track) Court, Theni in C.A.No.124 of 2023. The Lower Appellate Court by judgment dated 02.09.2024 confirmed the judgment of conviction and sentence passed



Crl.R.C(MD)No.901 of 2024

by the Trial Court. Challenging the same, present Criminal Revision Case has been filed.

5. The matter came up for hearing on 13.08.2024, Mr.S.Gopinathan, the Appellate Judge presiding over the Additional District (Fast Track) Court, Theni. The Appellate Judge then observed that he framed charges on 03.02.2023, while serving as Chief Judicial Magistrate, Theni, thus referred the matter to the Principal District Judge, Theni for withdrawal and posted on 02.09.2024, “for arguments”.

6. Learned counsel for petitioners would submit that a perusal of the E-Court records reveal that Presiding Officer Mr.S.Gopinathan intended to recuse himself, as he had presided as Chief Judicial Magistrate, Theni and framed charges on 03.02.2023. However, the impugned judgment came to be passed on 02.09.2024.

6.1. Learned counsel for petitioners would further submit that the Appellate Judge, having expressed his intent to recuse himself in view of the fact that he was involved with the matter earlier in framing charges, ought not to have proceeded to hear the matter and pass orders on



Crl.R.C(MD)No.901 of 2024

02.09.2024. In any event, although the matter was listed for arguments on 02.09.2024, orders were passed on the same date, thereby denying the petitioners an opportunity to argue. These infirmities apparent on the face of the record are fatal to the validity of the impugned judgment.

7. The principles governing the doctrine of bias are well settled and they are: (i) no man shall be a judge in his own cause; (ii) justice should not only be done but manifestly and undoubtedly seem to be done. The two maxims yield the result that if a member of a judicial body is 'subject to a bias (whether financial or other) in favour of, or against, any party to a dispute, or is in such a position that a bias must be assumed to exist, he ought not to take part in the decision¹.

8. In the instant case, when the Presiding Officer/Judge of the Appellate Court had indicated that he proposed to withdraw in view of his involvement at the time of framing charges, which clearly shows that the Appellate Judge himself was uncertain of his ability to decide the matter in impartial and neutral manner, free from any bias whatsoever. It is important that a Judge's mental equipoise must always remain firm and

¹ *Gullappalli Nageswara Rao v. State of A.P.* [AIR 1959 SC 1376 : (1960) 1 SCR 580], *Chandra Kumar Chopra v. Union of India*, (2012) 6 SCC 369.



Crl.R.C(MD)No.901 of 2024

undetected. A Judge should not allow his personal prejudice to go into the decision making. Strangely, in the present case, the Presiding Officer himself was uncertain if he would be in a position to discharge his judicial functions in an impartial manner without any bias. It is relevant to bear in mind, bias is such an insidious thing that even though a person may in good faith believe that he is acting impartially, his mind may subconsciously be affected by bias.

9. In the circumstances, I would think that this is one of those cases where the conduct of the Presiding Officer falls foul, of the settled principle, “justice should not only be done, but seem to be done”. In this regard, it may be relevant to refer to the judgment of the Supreme Court in the case of ***Fakruddin v. Principal, Consolidation Training Institute, reported in (1995) 4 SCC 538***

“2. Justice should not only be done but seem to be done. That is the basic structure on which confidence and faith in the institution rests. The judiciary from the bottom in the hierarchy to the apex at the top commands respect because of its impartiality and objectivity. When a Judge directs a case to be listed before another Court or Bench, as he knows one



or the other party, it is not because any statutory law precludes him from hearing and deciding it but the propriety is practised and observed to exclude even the remotest possibility of any misgiving or doubt about the impartiality of the Judge as even if he is just and fair and his decision is correct yet it may not be satisfying.

3. What happened in this case is not only unfortunate but to compound it further, the learned Judge even when apprised that he was the counsel for the respondent when he was at the bar did not observe that minimum norm which is expected to be observed even by quasi-judicial authorities.

4. The dispute related to allotment of 'chaks' in consolidation proceedings. Such a dispute does not raise any question of title. No exception, therefore, could be taken to the order passed by the High Court dismissing the writ petition in limine. But what has compelled us to interfere with the order of the High Court is that it was decided by a Bench of which one of the Judges was a counsel for the respondents before his elevation. It may happen at times that a Judge who had appeared for a party before his elevation may have forgotten about it. An order passed in ignorance of such factual error may not be taken notice of. But where it was specifically pointed out, as claimed in the



special leave petition, that the learned Judge was apprised of it and yet he chose to decide the case, is neither justified nor healthy for the institution. The result of the decision is immaterial. Maybe that another Bench hearing the case may have come to the same conclusion. In fact this Court might have refused to interfere with the order relating to allotment of 'chaks', but it is not the correctness or otherwise of the order but the sense of justice, the public glare in which a Judge is exposed every moment which is more important. A decision of a case one or other way may affect an individual but a decision by a Judge who had appeared for one of the parties irrespective of the stakes, the result and the consequences is of much significance from a social point of view. Therefore, irrespective of the merits of the case we set aside the order passed by the High Court and remit the case back to the High Court for deciding it afresh on merits in accordance with law. Any observation made in this order shall not be taken as deciding the rights of parties."

10. In the present case, the Judicial Officer himself pointed out that his involvement in the case at an earlier stage will warrant his recusal/withdrawal, but thereafter proceeded to pass the judgment on the



Crl.R.C(MD)No.901 of 2024

next date of hearing, when it was kept “for arguments”, which I would think is unacceptable.

11. Secondly, after expressing his intent to withdraw vide order dated 13.08.2024, the matter was kept on 02.09.2024 “for arguments”. However, impugned judgment came to be passed on 02.09.2024. The impugned judgment would not pass the muster of Article 14 of the Constitution of India in view of the undue haste in which it was passed.

12. It is trite that any proceeding made in undue haste tends to arbitrariness and cannot be justified. In this regard, it may be relevant to refer to the judgment of the Supreme Court in the case of ***Zenit Mataplast (P) Ltd. v. State of Maharashtra***, reported in (2009) 10 SCC 388, which reads as under:

“39. Anything done in undue haste can also be termed as arbitrary and cannot be condoned in law (vide M.P. Hasta Shilpa Vikas Nigam Ltd. v. Devendra Kumar Jain [(1995) 1 SCC 638 : 1995 SCC (L&S) 364 : (1995) 29 ATC 159] and Bahadursinh Lakhubhai Gohil v. Jagdishbhai M. Kamalia [(2004) 2 SCC 65 : AIR 2004 SC 1159]).



Crl.R.C(MD)No.901 of 2024

40. If the instant case is considered, in the light of the above settled legal propositions and admittedly the whole case of the appellant is based on violation of Article 14 of the Constitution as according to the appellant it has been a case of violation of equality clause enshrined in Article 14, the facts mentioned hereinabove clearly establish that the Corporation and the Government proceeded in haste while considering the application of Respondent 4 which tantamounts to arbitrariness, thus violative of the mandate of Article 14 of the Constitution.”

13. In that view of the matter, this Court has no hesitation in setting aside the impugned order. Accordingly, the impugned order passed by Additional District (Fast Track) Court, Theni, dated 02.09.2024 made in C.A.No.124 of 2023, confirming the conviction passed in S.C.No.150 of 2015, dated 04.09.2023 by Assistant Session Cum Chief Judicial Magistrate, Theni, is set aside and the matter is remanded back for fresh consideration. The Principal District Judge, Theni, shall assign this case to a Presiding Officer, other than Mr.S.Gopinath, who shall pass orders afresh commencing with stage as on 13.08.2024.



Crl.R.C(MD)No.901 of 2024

WEB COPY 14. This Criminal Revision Petition is **disposed of** on the above terms. There is no order as to costs. Consequently, connected miscellaneous petition is closed.

Index :Yes / No
Internet :Yes / No
NCC :Yes / No
Nsr

07.01.2026

To:

- 1.The Additional District (Fast Track) Court, Theni.
- 2.The Assistant Session Cum Chief Judicial Magistrate, Theni.
- 3.The Inspector of Police,
Bodinaickanur Police Station,
Theni District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Copy To:

The Principal District Judge, Theni.



WEB COPY



CrI.R.C(MD)No.901 of 2024

MOHAMMED SHAFFIQ, J.

Nsr

Order made in
CrI.R.C(MD)No.901 of 2024

07.01.2026