
(1977) 04 MAD CK 0015
In the Madras High Court

K. Shanmugasundara Patter

APPELLANT

Vs

The State Inspector, Railway Police

RESPONDENT

Date of Decision : 06-04-1977

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 216, 221, 251
Penal Code, 1860 (IPC) — Section 182, 211, 379

Citation : (1978) CriLJ 468

Hon'ble Judges : Gokulakrishnan, J

Bench : Single Bench

Judgement

Gokulakrishnan, J.—This is a petition to call for the entire records in C. C. No 27063 of 1976 on the file of the Sixth Metropolitan

Magistrate, Egmore, and to quash the same.

2. The above calendar case is tried as summons proceeding by the Sixth Metropolitan Magistrate. Egmore. The accusation therein is that the

petitioner herein is a goldsmith and commission agent in gold jewels, that on 20-5-1975, at Madras, he, with intent to cause damage to one

Ramchandra Achari and to move the Police for action, laid a complaint before the Police with having committed an offence and also moving the

Police to set the law in motion for investigation for an offence punishable u/s 379, I.P.C. knowing at that time, that there was no just ground for

such a complaint, and thereby committed an offence punishable u/s 211, I.P.C.

3. Mr. V. Venkataraman, the learned counsel appearing for the petitioner, pointed out that the charge u/s 211, I.P.C. is not correct and that the

accusation alleged will constitute a different offence. Inasmuch as no charge has been framed, this being a summons case, the learned counsel

submitted that the respondent cannot be allowed to amend the charge-sheet by incorporating a different section instead of Section 211, IPC Mr.

Venkataraman further contended that altering of the charge contemplated Under Sections 216 and 221, Cr.P.C will apply only to cases wherein

charges can be framed, and will not apply to cases tried as summons cases u/s 251 of Cr.P.C

4. Mr. Sengottaiyan, the learned counsel appearing on behalf of the Public Prosecutor, submitted that the State by filing a memo has corrected the

charge-sheet as one u/s 182, I. P. C, that the Court has power u/s 216, Cr.P.C to alter the charge and that u/s 221 (2), Cr.P.C the Court, if it

finds that the accused has been charged with one offence and it appears in evidence that he committed a different offence for which he might have

been charged under the provisions of Sub-section (1) of Section 221, he may be convicted of the offence which he is shown to have committed,

although he was not charged with it. According to Mr. Sengottaiyan, the accusation levelled against the petitioner herein is not changed except for

the section under which such accusation will come.

5. There is absolutely no impediment for the Court to frame charges even in summons cases. The fact that summons cases can be proceeded with

even without framing charges, will not in any way take away the powers conferred upon the Court Under Sections 216 and 221 of the Cr.P.C

even in the matter of summons proceedings. Further, there is absolutely no change in the accusation levelled against the petitioner except for

substituting Section 182 instead of Section 211. The accusation taken at the face value and accepted in its entirety makes out a prima facie case.

No doubt, it is for the prosecution to substantiate the same by letting in evidence. There is neither abuse of the process of the Court nor any legal

bar for the prosecution to continue the proceedings.

6. Thus, by merely looking at the accusation a prima facie offence has been made out, and hence the question of quashing the proceedings will not

arise in this case.

7. In these circumstances this petition is dismissed.