

(1961) 01 SC CK 0019
In the Supreme Court Of India
Case No : Criminal A. No. 111 of 1959

Natwarlal Shankarlal Mody

APPELLANT

Vs

State of Bombay

RESPONDENT

Date of Decision : 19-01-1961

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 162, 207A, 233, 234, 235, 236, 239, 239(d)
Indian Penal Code, 1860 — Section 120-A, 120B(1), 409, 477A
Evidence Act, 1872 — Section 10

Citation : (1964) MhLj 1

Hon'ble Judges : S.J. Imam, J;Raghubar Dayal, J;K. Subba Rao, J

Bench : Full Bench

Advocate : A.S.R. Ckari, Ashok H. Desai and I.N. Shroff, for the Appellant; H.R. Khanna, R.H. Dhebar for Respondent No. 1 and B.K.B. Naidu, for Respondents Nos. 2, 5 and 7 to 9, for the Respondent

Judgement

K. Subba Rao, J.—This appeal by special leave is preferred against the judgment of the High Court of Judicature at Bombay setting aside the order of the Presidency Magistrate, 16th Court, Esplanade, Bombay, framing charges and committing all the accused, except accused No. 3, to sessions.

2. Briefly stated the case of the prosecution is as follows: The Colaba Land and Mills Company Limited (hereinafter called the Company) is a public limited company incorporated in Bombay on July 1, 1880. In the year 1949 Vasudeo Jwalladutt Pilani (hereinafter called accused No. 1) became the Chairman of the Board of Directors of the Company and on July 20, 1950, he became its Managing Director. His step-brother, Kishenprasad Jwalladutt Pilani (hereinafter called accused No. 2) was appointed as one of the Directors of the Company on May 18, 1948. In March 1949 accused No. 1 took some employees of the Company in his confidence and told them that they should arrange for payment of at least Rs. 10,000 per month to him from the stores of the Company. To implement this object, from the date of the said arrangement until March 1956,

accused Nos. 1 and 2 with the help of accused Nos. 3 to 16--accused Nos. 5, 6, 8, 11, 12, 14, 15 and 16 were the employees of the Company, and accused Nos. 8, 11, 14 and 16 were its Managers from time to time; accused No. 6 was its storekeeper, accused No. 12 a clerk, accused No. 15 a cashier, and accused Nos. 3, 4, 7, 9, 10 and 13 were some of the dealers with the Company entered into many fraudulent transactions, committed offences of criminal breach of trust and forgeries and thereby large amounts, aggregating in all about Rs. 6 lakhs, belonging to the Company were misappropriated between March 14, 1949 and March 20, 1956. On those allegations a charge-sheet was filed in the Court of the Presidency Magistrate alleging that the accused were guilty of criminal conspiracy lasting for over 7 years and also of criminal breach of trust, forgeries and falsification of accounts. As many as 91 charges were levelled against the accused.

3. The learned Presidency Magistrate conducted an inquiry u/s 207A of the Code of Criminal Procedure and after considering the entire material placed before him made the following order: (1) There should be one joint trial of accused Nos. 1 and 2 and the employees, accused Nos. 6, 12 and 15 for conspiracy to commit criminal breach of trust, forgeries and for the various offences alleged to have been committed in pursuance of that conspiracy. The learned Magistrate selected 52 of the offences and framed charges in regard to them. As some of the offences were exclusively triable by Sessions Court, he committed them to the City Sessions Court to stand their trial. (2) Another separate trial should be held in regard to accused Nos. 1, 2, 6, 9, 10 and 13 for conspiracy to commit criminal breaches of trust and for 24 offences which were alleged to have been committed by them in pursuance of that conspiracy. As the said offences were triable by the Presidency Magistrate, he proposed to proceed with the trial against them. and (3) in regard to seven transactions in which accused No. 7 was involved, the Magistrate held that he, along with accused Nos. 1, 2 and 6, should be separately tried in respect of each of those transactions; and as they were triable by him, he proposed to proceed with the trial against them. The learned Presidency Magistrate discharged accused Nos. 3, 4, 8, 11, 14 and 16.

4. In coming to the aforesaid conclusion, the learned Magistrate has carefully considered the material placed before him. The said material disclosed that the Company's funds were misappropriated by adopting the following four methods: (1) Dishonest disposal: (a) sale of Company property by accused Nos. 1 and 2 with the help of accused Nos. 6, 15 and others; the property concerned included cotton waste, empty oil drums, barrels, gunny bags, iron hoops. The moneys received, instead of being credited to the Company's account, were misappropriated by accused Nos. 1 and 2. (b) Sale of Company property at market rates while contracts showed lower rates; the difference between the two rates was misappropriated by accused Nos. 1 and 2. (2) Fictitious service: payment was shown to persons either real or fictitious for rendering certain service to the Company like removing rubbish or overhauling machines; the moneys were not paid but were misappropriated. (3) Contracts with non-existent

firms: fictitious contracts were entered into with non-existent firms and the moneys alleged to have been paid by the Company were misappropriated. (4) Contracts with genuine firms: some of the dealers who were genuinely supplying goods to the Company entered into fictitious transactions with the Company and repaid the moneys received by them to accused Nos. 1 and 2. In short, in the first three categories of fraud only accused Nos. 1 and 2 and the employees of the Company were involved, for in the case of genuine sales the sale price was not accounted for either wholly or in part and in the case of fictitious services and contracts with non-existent firms only wrong entries were made in the account books and the moneys were misappropriated; the third parties came into the picture only in the case of contracts with genuine firms and under this category fall the Appellants, accused No. 13 (Respondent No. 9) and accused No. 7 (Respondent No. 8).

5. The learned Magistrate addressed himself to the question whether there was material on which it could be 'prima facie held that the Appellants and Respondents Nos. 8 and 9 (accused Nos. 7 and 13) were members of the original conspiracy or members of a separate conspiracy or offences. On the material before him, the Magistrate came to a prima facie opinion that there was a conspiracy between accused Nos. 1, 2, 6 and 15 for committing the various offences with which they were charged, but the transactions with the dealers had not been entered into in pursuance of the same conspiracy which the Directors of the Company had with their employees. The dealers are accused No. 7, accused Nos. 9 and 10 (Appellants) and accused No. 13. Accused No. 7 was concerned in seven transactions which had taken place between 1951 and 1956; accused Nos. 9 and 10 in eighteen transactions which had taken place between 1954 and 1955; and accused No. 13 in four transactions which had taken place in 1954 and 1955. The statements of the witnesses taken by the police u/s 162 of the Code of Criminal Procedure prima facie disclosed that the goods mentioned in the bills issued by the dealers were not supplied to the Company, that in many instances they were not in possession of the goods which they were alleged to have supplied and for which they had obtained payment, that the vouchers produced by some showing that they had purchased the goods from third parties were proved to be false in most of the cases as the merchants from whom they were alleged to have purchased the goods were not in existence. But there was no material, either direct or circumstantial, to impute any knowledge to the said dealers in regard to the original conspiracy, that is, the conspiracy between accused Nos. 1 and 2 and some of their employees, whereunder the employees should arrange for payment to accused Nos. 1 and 2 at least Rs. 10,000 per month from the stores of the Company. In the circumstances the Presidency Magistrate, on the findings, arrived at by him, split up the trials in the manner stated supra.

6. Against the said order the State filed a criminal revision questioning the separation of the trials as well as the discharge of some of the accused; and some of the accused also filed a revision in so far as the Magistrate's order went

against them. The High Court came to the conclusion that there, was only one conspiracy and that the common object of the conspiracy was to find money for accused Nos. 1 and 2 and to enable them to misappropriate and commit criminal breach of trust of those moneys and that with that end in view the employees of the Company and the dealers acted and in fact achieved that object. In the words of the High Court, "there were different strands of the chain of which the dealers were the end pieces". The High Court also held that there was a prima facie case against accused No. 8, the manager of the Company, and that he should not have been discharged. The High Court confirmed the order of discharge passed by the Magistrate in respect of other accused. In the result the High Court has framed as many as 91 charges against the ten accused i.e., the two Appellants and Respondents Nos. 2 to 9 before us, and committed them to sessions. Hence this appeal.

7. Learned counsel for the Appellants argued that the Presidency Magistrate elaborately considered the material placed before him and came to the conclusion that no prima facie case that the Appellants were parties to the first conspiracy had been made out and that in exercise of his discretion the Magistrate refused to frame a charge against them in respect of the general conspiracy and that in those circumstances the High Court was not justified in interfering with that discretion in the absence of any permissible grounds to do so.

8. It would be convenient at this stage to notice briefly the relevant aspect of the law pertaining to framing of charges in respect of an offence of conspiracy. Chapter V-A of the Indian Penal Code, which deals with criminal conspiracy, was inserted in the Code by Act VIII of 1913. Section 120A defines "criminal conspiracy" and Section 120B(1) provides for the punishment of criminal conspiracy. u/s 120-A, when two or more persons agree to do, or cause to be done an illegal act, or an act which is not illegal by illegal means, such an agreement is designated a criminal conspiracy. The gist of the offence under this section is an agreement to do an illegal act or an act which is not illegal by illegal means. Such an agreement can be established by express proof of conspiracy or may be inferred from the acts and conduct of the parties to such conspiracy. The impact of this section on Section 233 and Section 239 of the Code of Criminal Procedure may now be considered. u/s 233 of the Code of Criminal Procedure, "For every distinct offence of which any person is accused there shall be a separate charge, and every such charge shall be tried separately, except in the cases mentioned in Sections 234, 235, 236 and 239." u/s 239 (d) "persons accused of different offences committed in the course of the same transaction" may be charged and tried together. The combined effect of the three provisions is that if there is a criminal conspiracy to commit different offences, the persons who are members of that conspiracy may be charged and tried together but the necessary condition for invoking the provisions of Section 239 (d) is that the offence should have been committed in the course of one transaction i.e., in the present case one and the same conspiracy. Persons can be members of one

conspiracy only if they agreed to do or cause to be done acts constituting the said offences. This construction of the relevant provisions of the Indian Penal Code and the Code of Criminal Procedure received approval by judicial decisions. It would be enough if we notice a few of the many decisions on the subject. The first decision is of the Judicial Committee in AIR 1938 130 (Privy Council) where it laid down the scope of Section 239 of the Code of Criminal Procedure vis-a-vis the offence of criminal conspiracy. There the Appellants were charged, together with a number of other persons, with being parties to a criminal conspiracy to commit theft of electric energy by tampering with meters and one of the two Appellants was charged with having committed theft of electric energy and the other with having abetted him in the commission of that offence. The Magistrate convicted the Appellants of conspiracy as well as of theft. On appeal the High Court held that the charge of conspiracy failed, but that did not make the trial illegal. The Judicial Committee posed the question for decision thus: Is it enough if the conspiracy is to be found in the accusation or must it be found in the eventual result of the trial ? Is the relevant point of time that of the accusation or that of the eventual result ? The Judicial committee came to the conclusion that to invoke Section 239 (d) of the Code of Criminal Procedure it would be enough if the conspiracy was found in the accusation. It was observed at page 178 thus:

.... It may seem paradoxical that the prosecution should have the advantage of joining different offence and different accused simply because the allegation of a conspiracy seemed to the Magistrate to be prima facie justified, whereas at the trial the allegation breaks down. But the charges have to be framed, for better or worse, at an early stage of the proceedings. It would be paradoxical if no one could tell till the end of the trial whether the trial was legal or illegal.

In that case the Magistrate on the basis of the evidence given in the examination-in-chief thought that the framing of a charge of conspiracy was prima facie justified, and proceeded with the trial and convicted the accused both for conspiracy as well as other offences. This is an authority only for the position that a charge of conspiracy can be framed by a Magistrate if he is satisfied on the evidence given before him in examination-in-chief that a prima facie case has been made out. The principle so laid down will equally apply to a case where a Magistrate functioning u/s 207-A of the Code of Criminal Procedure peruses the documents and other material placed before him and frames a charge on the basis of the said material, if he is satisfied that the said material prima facie supports the charge of conspiracy. Though the point decided by the Judicial Committee was a narrow one, the following observations at page 177 bring out the grave consequences that may flow from an irregular exercise of the power u/s 239 (d) of the Code of Criminal Procedure:

... It would result in any such events that the prosecution is enabled at the trial to join separate offences contrary to the terms of Sections 234 and 235. and it has been affirmed that improper advantage is taken of Section 239 (d) so as to bring into one proceeding a great number of accused and a great multiplicity of

offences, with serious hardship and injustice to the accused. If that were indeed the result of the section, as the High Court seem to be apprehensive it might be, it would be much to be regretted, and might well be a ground for an amendment of the section by the Legislature, if such practice prevailed notwithstanding the warning of the High Court and their determination to see that accused are not being unfairly dealt with, and to prevent any procedure by which cases which should be comparatively short and simple become unwieldy, complicated and lengthy. But, even so, that can be no ground why the Court should misconstrue the section. Indeed, it is difficult to think that such apprehensions are justified. It must be hoped, and indeed assumed, that Magistrates will exercise their discretion fairly and honestly. Such is the implied condition of the exercise of every discretionary power.

This passage indicates the injustice that would be caused to the accused and cautions Magistrates to exercise their discretion fairly and honestly.

9. The next decision is that of this Court in *K.V. Krishnamurthy Iyer and Others Vs. The State of Madras*, . There the Magistrate framed 67 charges against 28 persons for conspiracy to commit criminal breach of trust u/s 409, Indian Penal Code, and falsification of the accounts of a bank u/s 477A, Indian Penal Code. The case went on for two years, in the course of which over 6,000 exhibits were filed and 203 witnesses were examined. The High Court condemned the framing of the charges in strong language and quashed the charges framed and directed a de novo trial. This Court agreed with the quashing of the charges by the High Court but held that the ordering of a de novo trial in that situation was not proper. This case illustrates how an irregular exercise of discretion by a Magistrate in framing a charge of conspiracy in respect of innumerable prosecutions results in injustice. Indeed, accused against whom grave allegations were made were discharged because of the defect in framing the charge.

10. This Court in *S. Swamirathnam Vs. State of Madras*, again considered the question of the propriety of framing a charge of conspiracy in the peculiar circumstances of that case. In that case, as in the present case, it was contended that there had been misjoinder of parties on the ground that several conspiracies distinct from each other had been lumped together and tried at one trial. That contention was rejected with the following remarks (p. 344):

... The charge, as framed, discloses one single conspiracy, although spread over several years. There was only one object of the conspiracy and that was to cheat members of the public. The fact that in the course of years others joined the conspiracy or that several incidents of cheating took place in pursuance of the conspiracy did not change the conspiracy and did not split up a single conspiracy into several conspiracies. It was suggested that although the modus operandi may have been the same, the several instances of cheating were not part of the same transaction.... In the present case, the instances of cheating were in pursuance of the conspiracy and were, therefore, parts of the same transaction.

There the Appellants were tried for the offence of conspiracy to cheat members of the public and for specific offences committed in pursuance of that conspiracy. The method adopted for cheating was to persuade such members of the public as could be persuaded to part with their money to purchase counterfeit Rs. 5 currency notes at half their face value and after having obtained their money to decamp with it. When a member of the public handed over his money, at a certain stage, one of the conspirators pretending to be a Police Officer would arrest the man who had the box containing their money and take him away with the box. The victim was thus deprived of his money without even having a single counterfeit currency note in his possession in exchange of the genuine money paid by him. It was found on evidence that all the Appellants took part in the various acts committed pursuant to that conspiracy. In such a situation this Court held that there was only one conspiracy. The only principle this Court laid down is that an accused need not be a member of a conspiracy from its inception but he may join it at a later stage, and that every one of the conspirators need not take part in every incident. If there is one conspiracy, the said circumstances cannot obviously make any difference in the application of Section 239 (d) of the Code of Criminal Procedure. In this context a decision of an English Court is rather instructive and that is in *R. v. Dawson* (1960) 1 All E R 558. In that case, an indictment on which two Appellants were charged with other accused included fifteen counts. Fourteen of these charged various fraudulent offences on dates in and between 1955 and 1957. The first count charged conspiracy to defraud between November 1, 1964 and December 31, 1957. The transactions which were the subject of the other fourteen charges were within the purview of the conspiracy charge. Both the Appellants were convicted on the conspiracy charge and one of the Appellants was convicted also on other counts. On appeal, Finnemore J., made the following weighty observations (p. 563):

... This Court has more than once warned of the dangers of conspiracy counts, especially these long conspiracy counts, which one counsel referred to as a mammoth conspiracy. Several reasons have been given. First of all if there are substantive charges which can be proved, it is in general undesirable to complicate matters and to lengthen matters by adding a charge of conspiracy. Secondly, it can work injustice because it means that evidence, which otherwise would be inadmissible on the substantive charges against certain people, becomes admissible. Thirdly, it adds to the length and complexity of the case so that the trial may easily be well-nigh unworkable and impose a quite intolerable strain both on the Court and on the jury.

Applying these observations to the facts of that case, the learned Judge proceeded to state thus (p. 564):

....we are satisfied this was not one conspiracy, and it is no more correct to charge several conspiracies, though they are called one conspiracy, if it is to include other different charges, in one count. Again we want to say in the strongest possible way that quite apart from what we think it is wholly

undesirable, and in this case it was obviously quite unnecessary, to have a long count of this kind, because it has lengthened the case enormously, and we think that in the result to which we have come it plainly worked an injustice on one at least of the Appellants before this Court today. Therefore we quash the convictions on the first count.

This authority, though it may not be of any help in construing Section 239 (d) of the Code of Criminal Procedure, points out the dangers of irregular exercise of discretion in the matter of framing a charge of conspiracy clubbed along with innumerable illegal acts against many persons.

11. This discussion leads us to the following legal position. Separate trial is the rule and joint trial is an exception. While Section 239 of the Code of Criminal Procedure allows a joint trial of persons and offences within defined limits, it is within the discretion of the Court to permit such a joint trial or not, having regard to the circumstances of each case. It would certainly be an irregular exercise of discretion if a Court allows an innumerable number of offences spread over a long period of time and committed by a large number of persons under the protecting wing of all-embracing conspiracy, if each or some of the offences can legitimately and properly form the subject-matter of a separate trial; such a joint trial would undoubtedly prolong the trial and would be a cause of unnecessary waste of judicial time. It would complicate matters which might otherwise be simple; it would confuse accused and cause prejudice to them, for more often than not accused who have taken part in one of the minor offences might have not only to undergo the long strain of protracted trial, but there might also be the likelihood of the impact of the evidence adduced in respect of other accused on the evidence adduced against him working to his detriment. Nor can it be said that such an omnibus charge or charges would always be in favour of the prosecution for the confusion introduced in the charges and consequently in the evidence may ultimately benefit some of the accused, as a clear case against one or other of the accused may be complicated or confused by the attempt to put it in a proper place in a larger setting. A Court should not be overzealous to provide a cover of conspiracy for a number of offences unless it is clearly satisfied on the material placed before it that there is evidence to prove *prima facie* that the persons who committed separate offences were parties to the conspiracy and they committed the separate acts attributed to them pursuant to the object of the said conspiracy.

12. With this background let us consider the effect of the High Court's decision. The High Court held that the case should proceed on the basis that there was one conspiracy spread over seven years i.e., from 1949 to 1956. As regards the general conspiracy, one charge was framed against ten accused; and 90 other specific charges were framed against different groups of accused in respect of individual acts committed during different periods. A perusal of the charges framed by the High Court shows that most of the acts committed by individual accused or by different groups of them can legitimately and properly be the

subject-matter of separate trials. Now take the case of the Appellants. Charges 69, 71, 73, 75, 77, 79 and 83 relate to them. They were charged for breach of trust in respect of specific amounts along with accused Nos. 3 and 4 and in one case along with accused Nos. 3, 4 and 5. The said acts are alleged to have been committed by them between September 1954 and March 1955 i.e., five years after the alleged conspiracy was entered into between accused Nos. 1 and 2 and the employees of the Company. The material before the Presidency Magistrate does not disclose that the Appellants had any knowledge of the original conspiracy or that they had even any direct contacts with accused Nos. 1 and 2. Under the omnibus charge of general conspiracy they will have to face a protracted trial which may take a long time and involve the examination of innumerable witnesses and the production of voluminous documents. This evidence, which would be irrelevant if a separate trial was held, may have a deleterious effect on the case of the Appellants. As often as not in such a trial evidence, which would otherwise be unacceptable, may be accepted by a Court in view of the evidence in regard to other offences adduced before it. In the circumstances, when the Presidency Magistrate directed separate trials, can it be said that he had exercised his discretion contrary to law or unreasonably? Indeed, in our view, the order of the Magistrate in the circumstances of the case is based on sound reasons and is fair both to the prosecution and to the defence. The High Court clearly went wrong in setting aside the order made by the Magistrate on a *prima facie* view of the material placed before him on the basis of decisions of Courts made under different circumstances. The learned Judge of the High Court does not say anywhere in his judgment that there is material either direct or circumstantial, to support the case that the Appellants committed the offences attributed to them to implement the object of the conspiracy of 1949, or that they had even knowledge of such a conspiracy; nor did he consider the prejudicial effect of the conglomeration of a long catena of charges in one trial on the case of the Appellants. Learned Counsel for the State contended that there was no necessity to have direct evidence to establish that the Appellants were parties to the original conspiracy and that the said fact could be inferred u/s 10 of the Evidence Act from the individual acts committed by them. Section 10 of the Evidence Act reads:

Where there is reasonable ground to believe that two or more persons have conspired together to commit an offence or an actionable wrong, anything said, done or written by any one of such persons in reference to their common intention, after the time when such intention was first entertained by any one of them, is a relevant fact as against each of the persons believed to be so conspiring, as well for the purpose of proving the existence of the conspiracy as for the purpose of showing that any such person was a party to it. Start center of a next row. Reasonable ground exists for believing that A has joined in a conspiracy to wage war Against the Government of India.

The facts that B procured arms in Europe for the purpose of the conspiracy, C collected money in Calcutta for a like object, D persuaded persons to join the

conspiracy in Bombay* E published writings advocating the object in view at Agra, and F transmitted from Delhi to G at Kabul the money which C had collected at Calcutta, and the contents of a letter written by H giving an account of the conspiracy, are each relevant, both to prove the existence of the conspiracy, and to prove A's complicity in it, although he may have been ignorant of all of them, and although the persons by whom they were done were strangers to him, and although they may have taken place before he joined the conspiracy or after he left it.

This section lays down a rule of evidence and its application is strictly conditioned by the existence of reasonable ground to believe that two or more persons have conspired together to commit an offence. The opening words of the section laying down a condition and the qualification laid down in the body of the section in regard to admissible acts, that is, they should be in reference to their common intention and also should have been committed, after the time when such intention was first entertained, indicate that the existence of a conspiracy must be established by prima facie evidence before the acts done or things written by any of the persons can be used as evidence against the others or for the purpose of proving the existence of the conspiracy. The illustration also premises the existence of a reasonable ground for believing that a particular person has joined a conspiracy in order to enable the facts particularised in it to be brought under the category of relevant evidence. Shortly stated, before the section can be invoked, as a general rule, some prima facie evidence should be placed before the Court to enable it to form an opinion that there is reasonable ground to believe that two or more persons have conspired together; and if that condition is fulfilled the acts and declarations of a conspirator against his fellow conspirators may be admitted as evidence. In the present case no material had been placed before the Presidency Magistrate to sustain a reasonable ground to believe that the Appellants were parties to the main conspiracy and, therefore, the operation of the section even if it was applicable at that stage, would not be of any help to the State. The High Court, in the circumstances of this case, in our view, was not justified in interfering with the discretion of the Presidency Magistrate exercised in a most balanced and reasonable manner. E. F.-2.

13. This leads us to consider the case of accused Nos. 7 and 13, who are Respondents Nos. 8 and 9 before us. The Presidency Magistrate directed that a separate trial should be held against accused Nos. 1, 2, 6, 9, 10 and 13 for conspiracy to commit criminal breach of trust. Accused No. 13 was included in this conspiracy as he was involved in four transactions that took place during the same period covered by the transactions of accused Nos. 9 and 10 i. e., during 1954 and 1955, and also the method adopted by him to defraud the funds of the Company was the same as that adopted by accused Nos. 9 and 10. We think that, in the circumstances, a joint trial of accused No. 13 along with accused Nos. 9 and 10 may not cause any prejudice to the accused. As regards accused No. 7, the Presidency Magistrate directed a separate trial in respect of each of the transactions entered into by him on the ground that the said transactions had

taken place during the period between 1951 and 1956, i. e., on an average one transaction a year, it was not likely that they were committed in pursuance of a conspiracy. The correctness of this finding has not been canvassed before us by learned Counsel appearing for accused No. 7. We also agree with the Presidency Magistrate, for the reasons given by him, in the selection of the offences for which the accused should be tried. The result is: (1) There should be one joint trial of accused Nos. 1, 2, 6, 8, 12 and 15 i. e., Respondents Nos. 2, 3, 4, 5, 6 and 7, for conspiracy to commit criminal breaches of trust and forgeries and for the various offences alleged to have been committed by them in pursuance of that conspiracy, namely, 52 offences selected by the Presidency Magistrate. The order of the Presidency Magistrate committing the said accused for the said offences to the City Sessions Court is restored. The Sessions Judge will have liberty to frame appropriate charges against the said accused. (2) A separate trial should be held against accused Nos. 1, 2, 6, 8, 9, 10 and 13 i. e. Respondents Nos. 2, 3, 4, 5 and 9 and Appellants Nos. 1 and 2, for conspiracy to commit criminal breach of trust and for 24 offences selected by the Presidency Magistrate and alleged to have been committed by them in pursuance of that conspiracy. This trial should be held by the Presidency Magistrate. He will have liberty to frame appropriate charges in respect of the offences. (3) In regard to accused No. 7, he should be tried, along with accused Nos. 1, 2 and 6, separately in respect of each of the seven transactions. The trials should be held by the Presidency Magistrate and he will have liberty to frame the appropriate charges.

14. In the result the order of the High Court is set aside and the order of the Presidency Magistrate is restored subject to the aforesaid modification.