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(2025) 10 KL CK 0037

Kerala HC

Case No: Ciminal Revision Petition No. 265 Of 2025

Somasundaram		APPELLANT
	Vs	
State Of Kerala		RESPONDENT

Date of Decision: Oct. 8, 2025

Acts Referred:

- Bharatiya Nagarik Suraksha Sanhita, 2023 — Section 246(1), 263(1)
- Code of Criminal Procedure, 1973 — Section 240(1)
- Indian Penal Code, 1860 — Section 34, 420
- Kerala Money Lenders Act, 1958 — Section 13, 17

Hon'ble Judges: P.V.Kunhikrishnan, J

Bench: Single Bench

Advocate: S.Rajeev, V.Vinay, M.S.Aneer, Anilkumar C.R., Sarath K.P., K.S.Kiran Krishnan, Dipa V., Seetha S., Hritwik C.S

Final Decision: Allowed

Judgement

P.V.Kunhikrishnan, J

1. This revision petition is filed against the order framing charges against the petitioner. The petitioner and another were charge-sheeted, alleging offences punishable under Section 420 read with Section 34 of the Indian Penal Code, 1860 (for short IPC), and also under Sections 13 and 17 of the Kerala Money Lenders Act, 1958. It is a case arising from Crime No.884/2011 of Ernakulam Town North Police Station.

2. The crux of the allegation in the charge sheet is that the petitioner, with an intention to collect exorbitant interest, without a license, conducted 'SARO Finance Company' and collected cheques and stamp papers from the customers. Originally, the case was charge sheeted under Sections 13 and 17 of the Kerala Money Lenders Act, 1958. Subsequently, the police conducted further enquiries and submitted a supplementary charge sheet alleging an offence under Section 420 IPC. The petitioner and another earlier approached this Court to quash the proceedings, as Crl. M.C.

No.8883/2019. This Court, as per Annexure-II judgment, allowed the petitioner to file a discharge petition in absentia. The second accused in the case was already discharged, as evidenced by the Annexure-I order. The petitioner was unable to file a discharge petition because the charge had already been framed at that stage. The petitioner is challenging the order framing the charge. Hence, this revision petition.

3. Heard the learned counsel for the petitioner and the learned Public Prosecutor.

4. This Court perused the charge framed against the petitioner by the Additional Chief Judicial Magistrate Court, Ernakulam. It is a court charge. It is in printed format, with the name of the accused and other details inserted by writing. I am surprised to see such a charge framed by a court of law. This is not the manner in which a charge is to be framed by a court of law. It cannot be in a printed format. The charge should be framed in writing as per Section 240(1) of the Code of Criminal Procedure, 1973 (for short Cr.P.C)/Section 263(1) of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short BNSS), which deals with the framing of charge in the trial of warrant cases instituted by a police report. Section 246(1) Cr.P.C/269(1) BNSS, which deals with the framing of charge in cases instituted otherwise than on police report, also says that the charge should be in writing. It is true that a Form is prescribed in Cr. P.C. about the charge. But the same cannot be used as a printed format by the court. The court cannot prepare a format of charge and fill the details of each case in the vacant space of the format. I am of the considered opinion that this impugned order is to be set aside. In this case, before framing a fresh charge, the petitioner can be given an opportunity to file a fresh discharge petition.

Therefore, this revision petition is allowed in the following manner:

1) The order framing the charge against the petitioner, dated 09.12.2019, is set aside.

2) The petitioner is free to file a discharge petition before the jurisdictional court within three weeks from the date of receipt of a copy of this order.

3) If such a discharge petition is received, the learned Magistrate will consider the same, without insisting on the presence of the petitioner, and pass appropriate orders in it, as expeditiously as possible, at any rate, within four months from the date of receipt of the discharge petition.