

Office of the Chief Metropolitan
Magistrate, Egmore, Madras -8.
Dated: 13-7-1990.

OFFICIAL MEMORANDUM

The attention of all the Metropolitan Magistrates in Egmore, Saidapet and George Town Units are specifically drawn to the Division Bench Ruling reported in 1989 M.L.J.(Cr1.) Page 259, rendered by S.T. Ramalingam and Arunachalam J J.. In the said ruling, it had been observed in para 33 as follows:

"While considering Section 167, Criminal Procedure Code, we have to refer to Sec.57 of the Code which specifies that a person arrested cannot be detained for more than 24 hours, by a police officer and he has to forward the person so arrested to the nearest Judicial Magistrate. The necessity of producing the accused together with the relevant documents before a Magistrate if the investigation cannot be completed within 24 hours is the underlying purpose of this section. Section 167(2) of the Code takes in its fold the authority to detain the accused in such custody as the Magistrate thinks fit for a term not exceeding 15 days in the whole. This custody can be police custody, Judicial custody or custody in mental asylum Children's Home or Vigilance Home as the case may be. The Magistrate has a choice to determine about the type of custody to be granted within the first fifteen days including police custody. For the first 24 hours a person can be detained by a police officer and later he can be detained or kept in custody only under the order of a Judicial Magistrate. Within the initial 15 days the nature of custody can be altered from time to time. Subsequently, in view of the specific mandate of the Proviso (a) of Sec.167(2), Criminal Procedure Code, Police custody does not appear to be possible. Since the police custody had been obtained after the statutory period of 15 days, the police custody is illegal.....".

All the Metropolitan Magistrates in the City Units are required to bear in mind, the above observations of their Lord Ships

- 2 -

and they shall not grant police custody of an accused after the initial period of 15 days remand under any circumstances, since the same is illegal. Any breach or deviation in this regard will be viewed seriously and the same will be reported to High Court for suitable action. The receipt of this official memorandum is required to be acknowledged at once.

Sd/- K. Natarajan,
Chief Metropolitan Magistrate.

To

All the Metropolitan Magistrates
in the City Units (By name cover)

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