

C I R C U L A R



Sub: Remand - Remand of accused by Judicial Magistrates - production of accused before the Magistrates - not possible in extraordinary circumstances - guidelines - issued.

...

1. Several instances, wherein the question as to whether a Judicial Magistrate can refuse to remand the accused if the accused cannot be physically produced before the Magistrate arose, were brought to the notice of the High Court. This aspect has already been considered by several High Courts and the Apex Court.

2. The attention of the Judicial Magistrates is invited to the verdicts given in the following cases:-

- (i) Raj Narain Vs. Supdt. Central Jail, New Delhi
(AIR 1971 SC 178)
- (ii) A. Lakshmana Rao Vs. Judl. Magistrate First Class Parvatipuram
(AIR 1971 SC 186)
- (iii) Gauri Shankar Jha Vs. State of Bihar
(AIR 1972 SC 711)
- (iv) M. Sambasiva Rao Vs. Union of India
(AIR 1973 SC 850)
- (v) Sandip Kumar Dey Vs. The Officer i/c. Sakchi P.S. Jamsedpur
(AIR 1974 SC 871)
- (vi) Kurra Dasaratha Ramaiah Vs. State of A.P.
(1992 CrL.J. 3485)
- (vii) Ramesh Kumar Ravi Vs. State of Bihar
(AIR 1988 Patna 199)

3. The following instructions are issued for the guidance of the Judicial Magistrates to enable them to meet such extraordinary circumstances wherein it is physically impossible to produce the accused in person:-

- (i) If an accused cannot be produced before the Judicial Magistrate due to the reasons beyond the control of the police or jail authorities, the Magistrate can authorise further remand, but before doing so, he must be satisfied that there are adequate grounds for so doing.
- (ii) Whenever it is not possible to produce the accused before the Magistrate, due to grounds valid, the concerned Investigating officer or any other responsible Police Officer in charge of the case or the Jail Superintendent shall file a detailed report before the Magistrate, explaining the circumstances under which it was not possible to produce the accused on that particular day, to facilitate application of Judicial mind by the Magistrate. If the Magistrate is satisfied, after going through the report, he may dispense with the production of the accused and pass appropriate orders U/S. 167 Cr. P.C. as to the detention of the accused.
- (iii) Such procedure should not be routine or mechanical.

4. The receipt of this Circular is required to be acknowledged and scrupulously followed.

HIGH COURT : MADRAS

Sd. A. Ramamurthi
REGISTRAR.

DATED: 20-6-1995

-True copy-Forwarded-By order-

S. Shanmuga
28.6.95
Administrative Officer (A.D.)

To

1. All the Sessions Judges.
2. The Prl. Sessions Judge, Madras.
3. The Chief Metropolitan Magistrate, Egmore, Madras.
4. The Chief Judge, Pondicherry
5. All the Chief Judicial Magistrates.
6. The Chief Judicial Magistrate, Pondicherry
7. All the Judicial Magistrates in this State and in the Union Territory of Pondicherry
8. All the Metropolitan Magistrates.

Copy to: 1. The Section Officer, F Section, High Court, Madras
2. The Record Keeper, 'AD' Records, do.

Spare: 10.