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Madras High Court
(BEFORE S. NAGAMUTHU, J.)

Inspector of Police
Versus
K.C. Palanisamy

Cri. O.P. (MD) No. 13615 of 2011
Decided on October 14, 2011

ORDER

1. An important question relating to the conflict between the fundamental rights guaranteed under the Constitution which an accused possesses and the larger societal interest in effecting crime detection is involved in this Criminal Original Petition. Challenge in this Criminal Original Petition is to the order dated 04.10.2011 passed by the learned Judicial Magistrate No. II, Karur in Crl. M.P. No. 6371 of 2011, declining to authorize the detention of the respondent herein in police custody during the initial period of 15 days of remand.

2. The respondent herein is an accused in Crime No. 267 of 2011 for offences under Sections 147, 353, 506(i) IPC r/w 3(1) of PPDL Act, 1992 and 4(1), 4(1-A), 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957 and 36-A of the Tamil Nadu Minor Mineral Concession Rules, 1959. He was formally arrested on 01.10.2011 by the police, and thereafter, produced before the learned Judicial Magistrate, No. II, Karur, with a request for remand on the ground that the investigation could not

be completed within 24 hours from the time of arrest. Having considered the said request, the learned Judicial Magistrate authorized the detention of the respondent/accused in judicial custody till 14.10.2011.

3. While so, the petitioner/State filed Crl. M.P. No. 6371 of 2011 before the learned Judicial Magistrate, seeking police custody of the respondent/accused for three days for the purpose of interrogation. The learned Judicial Magistrate directed the productipn of the respondent/accused before the Court. When he was so produced, to a specific query made by the learned Judicial Magistrate in respect of the request of the police, the respondent/accused submitted that he had no information to pass on to the Investigating Officer, and so, he was not willing to go to the custody of the police. Accepting the said submission of the respondent/accused, the learned Judicial Magistrate, by order dated 04.10.2011, dismissed the said Crl. M.P. No. 6371 of 2011 filed by the petitioner/State, thereby declining to authorize the detention of the respondent/accused in police custody, as requested. Aggrieved over the same, the petitioner/State is now before this Court with this Criminal Original Petition under Section 482 of the Code of Criminal Procedure Code.

4. In this Criminal Original Petition, it is contended by the learned Additional Advocate General that interrogation of the accused in the case is a significant part of investigation, and therefore, the learned Judicial Magistrate was not right in declining to authorize the detention of the respondent/accused in police custody. The learned Additional Advocate General would further submit that unless the respondent/accused

is interrogated, it may not be possible for the Investigating Officer to take the investigation speedily in the right direction, because the respondent/accused has got lot of informations regarding the offences and that he has got exclusive knowledge of the places, where the sand quarried, by committing the offence, has been concealed. He would further submit that unless custodial interrogation is made, it would be too difficult for the Investigating Officer to recover the stolen sand.

5. But, the learned Senior Counsel appearing for the respondent/accused would submit that under Article 19(1)(a) of the Constitution of India, the accused has got a freedom of speech and expression which includes the freedom to keep silence. In this case, according to him, the respondent had duly submitted before the learned Judicial Magistrate that he wanted to exercise his right to keep silence, and therefore, there will be no purpose served in authorizing the detention of the respondent/accused in police custody. He would further submit that authorizing the detention of the respondent/accused in police custody, when the respondent/accused has expressed his willingness not to make any statement, will only amount to testimonial compulsion offending Article 20(3) as well as Articles 19(1)(a) and 21 of the Constitution of India. Therefore, according to him, the learned Judicial Magistrate was right in dismissing the petition filed by the petitioner/State.

6. Before adverting to the factual matrix of the matter, let us commence our discussion on the legal questions involved. At the outset, I may point out that the personal liberty as guaranteed in Article 21 of the Constitution of India is of the widest amplitude and it covers a variety of rights which go to constitute the personal liberty of man and some of them have been raised to the status of distinct fundamental rights and given additional protection under Article 19 of the Constitution of India. As has been held by the Hon'ble Supreme Court in *Maneka Gandhi* v. *Union of India* reported in (1978) 1 SCC 248 : (AIR 1978 SC 597), the attempt of the Court should be to expand the reach and ambit of the fundamental rights rather then attenuate their meaning and content by a process of judicial construction.

7. In *R.C. Cooper* v. *Union of India* reported in 1971 (1) SCR 512 : (1970) 2 SCC 298 : (AIR 1970 SC 1318), the Hon'ble Supreme Court has stated in so many terms that each freedom has different dimensions and there may be overlapping between different fundamental rights and therefore, it is not a valid argument to say that the expression “personal liberty” in Article 21 must be so

interpreted as to avoid overlapping between that Article and Article 19(1). In *Maneka Gandhi's case*, the Hon'ble Supreme Court further went on to say that the law, must, therefore, now be taken to be well settled that Article 21 does not exclude Article 19 and that even if there is a law prescribing a procedure for depriving a person of “personal liberty” and there is consequently no infringement of the fundamental right conferred by Article 21, such law, insofar as it abridges or takes away any fundamental right under Article 19 would have to meet the challenge of that Article.

8. With this constitutional background, now, let us move on to the arena of remand. The remand of an accused, either to police custody or judicial custody, is governed by the provisions of the Code of Criminal Procedure. In other words, the curtailment of personal liberty of an individual by arrest and by remand by a Judicial Order, is done as per the procedure established by law, i.e., Code of Criminal Procedure. Apart from Articles 19 and 21 of the Constitution of India, the detention of an accused in police custody without the authorization of a Court beyond 24 hours from the time of arrest

is governed by Article 22(2) of the Constitution of India and Section 57 of the Code of Criminal Procedure.

9. An order of remand authorizing the detention either in police custody or in judicial custody passed by a learned Judicial Magistrate, should not in any way deviate from the legal mandate of the above constitutional as well as statutory provisions. As provided in Article 22(2) of the Constitution of India and Section 57 of the Code of Criminal Procedure, there can be no doubt that from the time of arrest for a maximum period of 24 hours, even without the authorization from any Court, the Police Officer, who has arrested the accused, can keep him in his custody and interrogate him. However, the time limit of 24 hours is only the upper limit and it does not mean that invariably in all the cases, for no reason, the accused can be detained in police custody for 24 hours. As per Section 57 of the Code of Criminal Procedure and Article 22(2) of the Constitution of India, at the earliest, from the time of arrest, the accused should be transmitted either to the jurisdictional Magistrate or to the nearest learned Judicial Magistrate for remand. When the accused is so produced before the learned Judicial Magistrate whether he is a jurisdictional Magistrate or the nearest Magistrate, he has power to authorize the detention of the accused either in police custody or in judicial custody, as he deems it fit, for a maximum period of 15 days. During the said period, the nature of the custody, once ordered, can be changed by the Magistrate. [vide *CBI* v. *Anupam J. Kulkarani* reported in (1992) 3 SCC 141) : (AIR 1992 SC 1768)

10. When a request is made by a Police Officer seeking police custody of the accused, the accused has got right of representation. In *Elumalai* v. *State* reported in 1983 LW (Cri) 121, a Division Bench of this Court has held that at the time when the accused is produced before the learned Judicial Magistrate for remand, he has got right of representation, that too, with the aid of a counsel. In *Maneka Gandhi's case*, the question as to how far the natural justice is an essential element of procedure established by law as stated in Article 21 of the Constitution of India came up for consideration. In paragraph No. 8 of the said judgment, the Hon'ble Supreme Court has held as follows:—

> "..... Any procedure which permits impairment of the constitutional right to go abroad without giving reasonable opportunity to show cause cannot but be condemned as unfair and unjust and hence, there is in the present case clear infringement of the requirement of Article 21. Now, it is true that there is no express provision in the Passports Act, 1967 which requires that the audi alteram partem rule should be followed before impounding a passport, but that is not conclusive of the question. If the statute makes itself clear on this point, then no more question arises. But even when the statute is silent, the law may in a given case make an implication and apply the principle stated by Byles, J., in *Cooper* v. *Wandswort Board of Works* 12:
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> "A long course of decisions, beginning

with Dr. Bentley case and ending with some very recent cases, establish that, although there are no positive works in the statute requiring that the party shall be heard, yet the justice of the common law will supply the omission of the legislature."

> The principle of audi alteram partem, which mandates that no one shall be condemned unheard, is part of the rules of natural justice. In fact, there are two main principles in which the rules of natural justice are manifested, namely, nemo judex in causa sua and audi alteram partem. We are not concerned here with the

former, since there is no case of bias urged here. The question is only in regard to the right of hearing which involves the audi alteram partem rule. Can it be imported in the procedure for impounding a passport?"

In Paragraph No. 9 of the said Judgment, the Hon'ble Supreme Court has further held as follaws:—

> "Thus, the soul of natural justice is "fair-play in action" and that is why it has received the widest recognition throughout the democratic world. In the United States, the right to an administrative hearing is regarded as essential requirement of fundamental fairness. And in England too it has been held that "fair-play in action" demands that before any prejudicial or adverse action is taken against a person, he must be given an opportunity to be heard. The rule was stated by Lord Denning, MR in these terms in *Schmidt* v. *Secretary of State or Home Affairs* 15 where a public officer has power to deprive a person of his liberty or his property, the general principle is that it has not to be done without his being given an opportunity of being heard and of making representations on his own behalf. The same rule also prevails in other Commonwealth countries like Canada, Australia and New Zealand. It has even gained access to the United Nations (vide *American Journal of International Law*, Vol. 67, p. 479). Magarry, J., describes natural justice "as a distillate of due process of law" (vide *Fontaine* v. *Chastarton* 16). It is the quintessence of the process of justice inspired and guided by "fair-play in action". If we look at the speeches of the various Law Lords in *Wiseman case 14* it will be seen that each one of them asked the question "whether in the particular circumstances of the case, the Tribunal acted unfairly so that it could be said that their procedure did not match with what justice demanded", or, was the procedure adopted by the Tribunal "in all the circumstances unfair?" The test adopted by every Law Lord was whether the procedure followed was fair in all the circumstances and "fair-play in action" required that an opportunity should be given to the taxpayer "to see and reply to the counter-statement of the Commissioners" before reaching the conclusion that "there is a prima facie case against him". The inquiry must, therefore, always be: does fairness in action demand that an opportunity to be heard should be given to the person affected?.

11. In view of the above legal pronouncement of the Hon'ble Supreme Court, since the remand to custody deprives the personal liberty of an accused as guaranteed in Article 21 of the Constitution of India, before passing any order of remand, either to the judicial custody or to the police custody, it is absolutely necessary for the Magistrate to afford "hearing" to the accused enabling him to make his representation, if any. Here, the expression "hearing" may not be over-emphasized. In this context, hearing means, only a fair opportunity to the accused to make his statement in respect of the request of the police for remand either to the judicial custody or to the police custody. But, under the guise of making representation, the accused shall not seek adjournment, since the hearing is purely summary in nature, that too, with limited scope.

12. After perusing the case diary and the other records and after affording opportunity to the accused, as indicated above, if the Magistrate decides to remand the accused to judicial custody, he is not required to record his reasons for doing so, whereas, as provided in Section 167(3) of the Code of Criminal Procedure, if the Magistrate authorizes the detention in the custody of the police, he shall record his reasons for doing so. Therefore, it is needless to point out that without there being sufficient reasons, it shall not be law

ful for a Magistrate to remand an accused to the police custody. In order to ascertain as to whether there are reasons to authorize the detention in police custody, the Magistrate shall peruse the case diary and other relevant records and the representation of the accused.

13. At this juncture, I may again refer to the judgment of the Hon'ble Supreme Court in *CBI* v. *Anupam J. Kulkarani*, ((1992) 3 SCC 141 : AIR 1992 SC 1768) cited supra, wherein the Hon'ble Supreme Court has categorically held that the detention of an accused in police custody is disfavoured by law. The relevant observation of the Hon'ble Supreme Court is as follows:—

> "The procedural law is meant to further the ends of justice and not to frustrate the same. It is an accepted rule that an interpretation which furthers the ends of justice should be preferred. It is true that the police custody is not the be-all and end-all of the whole investigation but yet it is one of its primary requisites particularly in the investigation of serious and heinous crimes. The legislature also noticed this and permitted limited police custody. The period of first fifteen days should naturally apply in respect of the investigation of that specific case for which the accused is held in custody. But such custody cannot further held to be a bar for invoking a fresh remand to such custody like police custody in respect of an altogether different case involving the same accused."

14. A cursory perusal of the above judgment of the Hon'ble Supreme Court would make it manifestly clear that it is mainly because of the legislative mandate contained in Section 167(3) of the Code of Criminal Procedure, the Hon'ble Supreme Court has held that in general the police custody is disfavoured by law and in any event, if the Magistrate decides to authorize the detention of the accused in police custody, the reasons are to be recorded.

15. Nextly, it is the contention of the learned Senior Counsel for the petitioner that the accused has got right to keep silence as provided in Article 19(1)(a) of the Constitution of India and he is not bound to answer any question during interrogation. For this purpose, the learned Senior Counsel would heavily make reliance on the judgment of the Hon'ble Supreme Court in *Nandhini Satpathy* v. *P.L. Devi* reported in 1978 SCC (Cri) 236: ((1978) 2 SCC 424 : AIR 1978 SC 1025). It was a case, where after registering a case against Mrs. Nandhini Satpathy, the Investigating Officer issued summons directing her to appear before him for the purpose of interrogation. But, she did not respond to the said summons. Therefore, prosecution was launched against her alleging that she had committed an offence punishable under Section 179 of the Penal Code, 1860. The said proceeding came to be challenged by her before the Court.

16. In the said case, one of the arguments advanced was that the accused has got right to keep silence, which is implicit in the freedom of speech and expression enshrined in Article 19(1)(a) of the Constitution of India. Concurring with the said contention, the Hon'ble Supreme Court has categorically held in the said judgment that the freedom of speech and expression as guaranteed in Article 19(1)(a) of the Constitution of India includes a right to keep silence also. Therefore, no one can compel any citizen of this country to make a statement. But, at the same time, the question is, even while interrogation by the police in connection with a crime, whether an accused or a witness has got absolute freedom to keep silence so as to refuse to make any statement in respect of any information, which he has. In this regard, I may usefully refer to Section 161(1) and (2) of the Code of Criminal Procedure, which reads as follows:—

> "161. Examination of witnesses by police — (1). Any police officer making an

investigation under this Chapter, or any police officer not below such rank as the State Government may, by general or special order, prescribe in this behalf, acting on the requisition of such officer, may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

(2). Such person shall be bound to answer truly all questions relating to such case put to him by such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture."

17. It is needless to point out that the Hon'ble Supreme Court has held that the expression "any person" as employed in Section 161 of the Code of Criminal Procedure includes an accused also, [vide *Nandini Satpathy's case*]. Therefore, according to Section 161(2) of the Code of Criminal Procedure, an accused is bound to answer truly all the questions relating to the case put by the Investigating Officer during interrogation, however, he is not bound to answer the questions, answer to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

18. Article 20(3) of the Constitution of India states that no person accused of any offence shall be compelled to be a witness against himself. While interpreting Article 20(3) of the Constitution of India, the Hon'ble Supreme Court in *State of Bombay* v. *Kathi Kalu Oghad* reported in AIR 1961 SC 1808, has held that the said right extends not only during the proceedings before the Court, but during the period of investigation as well. In other words, during the course of investigation, an accused cannot be compelled to make any statement which is likely to incriminate him. However, for an accused, the freedom to keep silence emanating from Article 19(1)(a) of the Constitution of India is subject to the reasonable restrictions provided in Section 161(2) of the Code of Criminal Procedure. Thus, if an accused is sought to be interrogated by the police, he is bound to answer truly all the questions relating to the case and he cannot claim that he has got absolute right to keep silence, and so, he will not make any statement during interrogation. The only exception is that he need not answer any question, answer to which is likely to incriminate him.

19. After referring to *Nandini Satpathy's case* and *Kathi Kalu's case*, a Full Bench of the Hon'ble Supreme Court in *Selvi* v. *State of Karnataka* reported in (2010) 7 SCC 263 : (AIR 2010 SC 1974), while detailing the safeguards provided to an accused during interrogation, has held as follows:—

"This Court has recognised that the protective scope of Article 20(3) extends to the investigative stage in criminal cases and when read with Section 161(2) of the Code of Criminal Procedure, 1973 it protects accused persons, suspects as well as witnesses who are examined during an investigation. The test results cannot be admitted in evidence if they have been obtained through the use of compulsion. Article 20(3) protects an individual's choice between speaking and remaining silent, irrespective of whether the subsequent testimony proves to be inculpatory or exculpatory. Article 20(3) aims to prevent the forcible "conveyance of personal knowledge that is relevant to the facts in issue". The results obtained from each of the impugned tests bear a "testimonial" character and they cannot be categorised as material evidence." Thus, there are sufficient safeguards provided against self-incrimination.

20. In view of the above discussion, the contention of Mr. N.R. Elango, the learned Senior Counsel for the petitioner, that the respondent has got absolute fundamental

right to keep silence even during interrogation, and therefore, there will be no purpose in sending the accused to the custody of the police cannot be countenanced. Even in *Nandini Satpathy's case*, the Hon'ble Supreme Court, at the end, directed her to appear before the police to face the interrogation so as to truly answer all the relevant questions relating to the said case, however subject to her right against self-incrimination.

21. In view of the above legal position, whenever a request is made by the police for police custody of an accused for the purpose of interrogation, it is irrelevant that the accused expresses his desire not to make any statement, because as I have already stated, the accused has got no such absolute right to decline to answer the questions relating to the case put during the interrogation, otherwise he will be committing an offence under Section 179 of the Penal Code, 1860.

22. The learned Senior Counsel for the petitioner would rely on the judgment of Kerela High Court in *T.N. Jayadeesh Devidas* v. *State of Kerala* reported in 1980 Cri LJ 906. That was a case, where when a similar request was made for police custody for the

purpose of effecting recovery under Section 27 of the Indian Evidence Act, 1872, the High Court of Kerela took the view that when the accused states that he has no information to pass on to the police regarding the stolen articles, there will be no purpose in granting police custody of the accused. In that case, the High Court of Kerala had no occasion to examine the question as to whether the right to keep silence extends to the accused to refuse to answer any question, though the answer to the said question may not be incriminating. The Court was concerned with elicitation of confession under compulsion thereby violating Article 20(3) of the Constitution of India. Further, on facts, such request for police custody was sought for, after the accused had already been released on bail. It was in those circumstances, the High Court of Kerala set aside the order of remand to police custody. Thus, the view expressed in the said case was on a totally different context and the same cannot be imported to the facts of the present case at all.

23. The next question is whether an accused need not be sent to the custody of the police when the request made by the police is for the purpose of interrogation, because the Police Officer can very well interrogate him in the prison itself. Undoubtedly, as held in *CBI* v. *Anupam J. Kulkarani's case*, when the accused is in prison, the Police Officer has got every right to visit the prison and to interrogate him. Simply because such power is vested with the police to go over to the prison to interrogate the accused, it does not mean that he has to necessarily resort to the said course without seeking police custody. The reasons are elaborated in paragraph No. 11 of the said judgment which are as follows:—

> "It is true that the police custody is not the be-all and end-all of the whole investigation but yet it is one of its primary requisites particularly in the investigation of serious and heinous crimes."

24. While stressing the significance of custodial interrogation, in *State* v. *Anil Sharma* reported in (1997) 7 SCC 187 : (AIR 1997 SC 3806), the Hon'ble Supreme Court has held as follows:—

> "6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of the Code. In a case like this

effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders."

25. In *State of Bombay* v. *Kathi Kalu Oghad* reported in AIR 1961 SC 1808, the eleven Judges Bench of the Hon'ble Supreme Court, while interpreting the scope of Article 20(3) of the Constitution of India, has held as follows:—

(1) An accused person cannot be said to have been compelled to be a witness against himself simply because he made a statement while in police custody, without anything more. In other words, the mere fact of being in police custody at the time when the statement in question was made would not, by itself, as a proposition of law, lend itself to the inference that the accused was compelled to make the statement, though that fact, in conjunction with other circumstances disclosed in evidence in a particular case, would be a relevant consideration in an enquiry whether or not the accused person had been compelled to make the impugned statement.

(2) The mere questioning of an accused person by a police officer, resulting in a voluntary statement, which may ultimately

turn out to be incriminatory, is not "compulsion".

26. Very recently, in *Assistant Director, Directorate of Enforcement* v. *Hassan Ali Khan* reported in 2011 (4) Scale 53, the Hon'ble Supreme Court in paragraph No. 6 has held as follows:—

"6. Having regard to the extra ordinary circumstances and complexity of the issues involved and the magnitude of the case, we consider it appropriate to authorize the detention of the respondent/accused herein for his custodial interrogation."

27. From the above judgments of the Hon'ble Supreme Court, it could be easily perceived that consistently, the Hon'ble Supreme Court has been holding that the custodial interrogation by the police during investigation is qualitatively more elicitation-oriented than questioning a suspect and in appropriate cases to take forward the investigation further in the right direction, it is absolutely necessary for an Investigating Officer to have custodial interrogation of the accused. As held by the Hon'ble Supreme Court in *Kathi Kalu's case*, cited supra, mere questioning of an accused person by a Police Officer during interrogation will not amount to testimonial compulsion so as to fall within the ambit of Article 20(3) of the Constitution of India. As I have already concluded, the freedom to keep silence emanating from Article 19 (1)(a) of the Constitution of India is subject to the reasonable restrictions provided in Section 167(3) of the Code of Criminal Procedure, however, the same is controlled by Article 20(3) of the Constitution of India. In simple terms, the accused cannot claim absolute right to keep silence and he is bound to truly answer all the relevant

questions put to him during the course of investigation, however, he can refuse to answer only such of those questions, answers to which are likely to incriminate him.

28. In view of the above settled position of law, whenever any request for custody of the police is sought for, irrespective of the fact that the accused expresses his unwillingness to make a statement, in the event the Court is satisfied on evaluating the factors like gravity, seriousness, magnitude, the absolute necessity etc., after recording the said reasons, as provided in Section 167(3) of the Code of Criminal Procedure, the Magistrate shall authorize the detention of the accused in police custody during the initial period of 15 days of remand for any appropriate period. This is what is reiterated in Rule 76 of the Criminal Rules of Practice. In a given case, whether it is absolutely necessary to grant police custody or not is a matter to be decided depending upon the facts and circumstances of each case and the same cannot be put into a straightjacket formula.

29. In the case of *Sri Jeyandra Saraswathi Swamigal* v. *State of Tamil Nadu* reported in 2005 MLJ (Cri) 110, the Hon'ble Mr. Justice A.K. Rajan [as he then was], after having analyzed the legal position, has taken a similar view, which I have expressed in this order. I am in full agreement with the view taken in the said judgment.

30. Now, coming to the facts of the present case, as I have already stated, the purpose for which the police custody is sought for, is for custodial interrogation. The learned Judicial Magistrate, on appreciating the facts, has recorded that the police custody of the accused cannot be granted. The learned Additional Advocate General is not in a position to point out any circumstance, which would justify ordering of police custody. As a matter of fact, the accused was earlier arrested in connection with some other case and while he was in prison, formal arrest in the present case was effected. When such a formal arrest was made, it is not explained to the Court as to why the Police Officer did not interrogate him in prison. It is not a case where the accused by giving a slip to the police surrendered before the Court thereby depriving the police of a chance to interrogate him during the period of 24 hours. In a case where the accused directly surrenders before the Court, since the police is deprived of having custodial interrogation of the accused which may extend to 24 hours time, it may be a very strong circumstance justifying the detention of the accused in police custody for the purpose of interrogation. In the case on hand, though the accused was already in judicial custody and the formal arrest was effected in prison, absolutely, I find

no explanation as to why he was not interrogated at the time when the formal arrest was effected. It is not the case of the police that after the formal arrest was effected, any material fact had surfaced about which the accused should be interrogated. For these reasons, I find, on facts, that there are no sufficient reasons to authorize the detention of the accused in police custody and thus, the learned Judicial Magistrate was right in negativing the request of the police. In view of all the above, this Criminal Original Petition fails and the same is, accordingly, dismissed.

31. *Petition dismissed.*