

(1928) 08 MAD CK 0039

In the Madras High Court

Case No : Criminal Revision Case No. 344 of 1928

Chellapathi Naidu and Others

APPELLANT

Vs

T. Subba Naidu

RESPONDENT

Date of Decision : 17-08-1928

Acts Referred:

Criminal Procedure Code, 1898 (CrPC) — Section 145(6)

Citation : (1928) 08 MAD CK 0039

Hon'ble Judges : Reilly, J

Bench : Single Bench

Advocate : M.S. Venkatarama Ayyar, for the Appellant; C. Narasimhachari and K.N. Ganapati, Public Prosecutor for Crown, for the Respondent

Judgement

Beilly, J.—In this case the Sub divisional Magistrate of Tiruvallur in the Chingleput District has made what purports to be an order u/s 145(6) of the Code of Criminal Procedure. It is objected for the Petitioners here that that order was made without jurisdiction. It appears that the Respondent here presented a petition to the District Magistrate of Chingleput alleging that there was likely to be a breach of the peace in connexion with certain land and praying for action to be taken u/s 145 of the Code. The District Magistrate, as he says, decided "to take the petition on file" and then transferred it to the Sub divisional Magistrate of Tiruvallur for disposal. The Sub-divisional Magistrate of Tiruvallur proceeded to make what purported to be an order u/s 145(1). But it happened that the land concerned was not within the local limits of the jurisdiction of that Sub divisional Magistrate. The Petitioners here therefore contend that he had no jurisdiction to initiate proceedings u/s 145(1).

2. For the Respondent it is contended that the District Magistrate had, u/s 192 of the Code, power to transfer the inquiry at any stage and that the District Magistrate having once transferred this matter to the Sub-divisional Magistrate of Tiruvallur, that Sub-divisional Magistrate had jurisdiction to proceed with an inquiry u/s 145. Arumuga Tegundan and Anr. ILR (1902) Mad. 188 and Satish

Chandra Panday v. Rajendra Narain Bagchi ILR 22 Cal. 898 have been quoted for the Respondent to show that inquiries u/s 145 of the Code may be transferred by the proper authorities from one Court to another. But it must be noticed that, in each of those cases, the order u/s 145(1), which is the initiatory step in proceedings u/s 145, had been made by a Magistrate who had local jurisdiction over the land concerned. In view of the decision in Arumuga Tegundan and Anr. ILR (1902) Mad. 188, I must take it that, if the District Magistrate had himself made an order u/s 145(1) in this case, as he had undoubtedly jurisdiction to do, and had then transferred the matter to the Sub-divisional Magistrate of Tiruvaliur, the Sub-divisional Magistrate of Tiruvaliur would have had jurisdiction to proceed with the inquiry, though I may perhaps venture to say that, if I had not that decision before me, I should have regarded that question as open to doubt. But I have no doubt that the order u/s 145(1) in such a case must be made by a Magistrate having local jurisdiction over the land or water concerned. That I think is made clear both by the object and wording of the Section. The object of Section 145 is, not to provide parties with an opportunity of bringing their civil disputes before a Criminal Court or of maneuvering for position for the purpose of subsequent civil litigation, though that is often the effect of such proceedings, but to arm the Magistrate concerned with an additional weapon for maintaining peace within the area for which he is responsible. And the wording of Section 145(1) requires the Magistrate to state in his initial order that he is satisfied that there is a dispute likely to cause a breach of the peace concerning some land or water or its boundaries within the local limits of his jurisdiction. It is not the business of any Magistrate as such to maintain order or peace outside the limits of his local jurisdiction. What the Tiruvallur Sub-divisional Magistrate has in effect done in this case is to say "I am satisfied that there is a dispute likely to cause a breach of the peace concerning some land within some one else's jurisdiction, and I propose to use my powers to prevent it", which is almost an absurdity. The learned Sub-divisional Magistrate has, I think, felt the difficulty of his position, as in his order purporting to be made u/s 145(1) he has said that the land is within his jurisdiction "as per the proceedings of the District Magistrate." Now in this Presidency a District Magistrate may post one Sub-divisional Magistrate to the charge of another Sub-division; but he has no power to alter the boundaries of any subdivision of his district permanently, temporarily or for the purpose of a particular case. No order of the District Magistrate could have brought the land with which we are concerned within the local jurisdiction of the Sub-divisional Magistrate of Tiruvallur. That being so, I think it is clear that the Sub-divisional Magistrate's order u/s 145(1) in this case was without jurisdiction, and it follows that his whole proceedings were without jurisdiction. There does not appear to be any direct authority on this point; but Konda Reddi v. King-Emperor ILR (1917) Mad. 246, which deals with a somewhat similar provision in Section 107 of the Code, takes in effect the same view of the matter as I have done.

3. I may add that in this case, even if the learned Sub-divisional Magistrate's

order had not been without jurisdiction, it would have been necessary to send the proceedings back to him in order that he might write a proper judgment in the case. What he has done is, when he came to the end of his inquiry, to fill up Form 22 in Schedule V of the Code, which is in the nature of a decree, and leave the matter there without any explanation of his reasons or his view of the evidence put before him. It would be very convenient to Magistrates if they could be allowed to dispose of such cases in that way; but there can be no doubt that it is their duty to write an order or judgment which shows that they have considered the contentions of the parties and the evidence put before them and which gives the reasons for their decision. There is nothing in Section 145 to absolve a Magistrate from that ordinary duty.

4. The whole proceedings of the Sub-divisional Magistrate in this case are set aside.