

(1934) 10 MAD CK 0027
In the Madras High Court

C.S. Rajagopala Aiyar

APPELLANT

Vs

Palaniswamy Goundan

RESPONDENT

Date of Decision : 26-10-1934

Acts Referred:

Citation : (1935) 68 MLJ 526

Hon'ble Judges : Pandrang Row, J; Pandrang Rao, J

Bench : Division Bench

Judgement

Pandrang Rao, J.—This application is not opposed by the learned Public Prosecutor who concedes that the petitioner must be deemed to

have acted in his official capacity as a Sub-Magistrate when the acts alleged against him in the complaint were committed. It is abundantly clear

that this must have been the case. The Sub-Magistrate went to the spot at the request of the Receiver appointed by the Court as the Sub-Inspector

of Police was away and the Sub-Magistrate took a small police force with him for the purpose of preventing a breach of the peace which was

apprehended. It follows that what he did or is said to have done after reaching the place where the breach of the peace was feared was done in his

official capacity as a Magistrate and in the performance of what he considered to be his duty as a Magistrate. Even if he exceeded his powers and

even if he thereby committed any offence no complaint in respect of any such offence could be entertained by any Court without the sanction of the

Local Government. The Joint Magistrate's action in taking cognisance of the offences said to have been committed by the petitioner in this case in

the absence of sanction by the Local Government is contrary to law, and the proceedings now pending before him in this case are quashed so far

as the petitioner, i.e., the Sub-Magistrate, is concerned.