

(1934) 10 MAD CK 0042
In the Madras High Court

C.S. Rajagopala Iyer

APPELLANT

Vs

Palaniswami Goundan

RESPONDENT

Date of Decision : 26-10-1934

Acts Referred:

Citation : AIR 1935 Mad 319 : 159 Ind. Cas. 692

Hon'ble Judges : Pandrang Row, J

Bench : Single Bench

Judgement

Pandrang Row, 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 toy Court without the sanction of

the Local Government. The Joint Magistrate's action in taking cognizance 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.