

(1974) 09 MAD CK 0012
In the Madras High Court
In Re: Raju

Date of Decision : 24-09-1974

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 18, 21, 21(1)

Citation : (1975) CriLJ 1199

Hon'ble Judges : Paul, J

Bench : Single Bench

Judgement

Paul, J.—The Revision Petitioner challenges his conviction by the Special Honorary Presidency Magistrate, Traffic Mobile Court, Madras,

for an offence under Rule 323 of the Motor Vehicles Rules read with Section 112 of the Motor Vehicles Act and the sentence of fine of Rs. 30/-

in default to undergo simple imprisonment for one week, meted out to him for the said offence. The petitioner was convicted on his own admission

and plea before the Special Honorary Presidency Magistrate, who presided over the Traffic Mobile Court, which was constituted under G. O.

Ms. No. 901 Home dated 13-3-1966. That Government Order shows that the Government sanctioned the constitution of the Mobile Court for

the trial exclusively of traffic offences in the Madras City.

2. The learned Counsel for the revision petitioner contends that the Chief Presidency Magistrate, Madras, has framed rules for the working of the

Traffic Mobile Court, Madras, with the approval of the Government of Tamil Nadu, in exercise of the powers conferred by Section 21(1) of the

Code of Criminal Procedure, that Rule 8 of the said rules stipulates the various offences which shall be tried by the Traffic Mobile Court, that the

offence of which the revision petitioner has been convicted is not one of those offences enumerated in that rule and that, therefore, the Special

Honorary Presidency Magistrate, Traffic Mobile Court, had no jurisdiction to enquire into the case and convict the revision petitioner. In short the

learned Counsel contends that, by reason of Rule 8 referred to above, the Special Honorary Presidency Magistrate had no power to try this

offence or convict the revision petitioner.

I am unable to accept this contention of the learned Counsel for the revision petitioner. u/s 18 of the Code of Criminal Procedure, the State

Government is empowered to appoint, from time to time, a sufficient number of persons (called Presidency Magistrates) to be Magistrates for each

of the Presidency Towns and to appoint one of such persons to be Chief Presidency Magistrate for each such town. Sub-section (2) further states

that ""the powers of a Presidency Magistrate under this Code shall be exercised by the Chief Presidency Magistrate, or by a salaried Presidency

Magistrate or by any other Presidency Magistrate empowered by the State Government to sit singly or by any Bench of Presidency Magistrates"".

The Magistrate in question is a Special Honorary Presidency Magistrate so appointed u/s 18 of the Code of Criminal Procedure by the State

Government and empowered to sit singly and as such he is possessed of all the powers of a Presidency Magistrate under the statute itself. These

powers cannot be controlled or circumscribed by the State Government by means of any Government Order, much less can the Chief Presidency

Magistrate curtail or limit or circumscribe the statutory powers conferred on the Presidency Magistrate by means of any rule framed u/s 21 of the

Code of Criminal Procedure.

It may also be noted that Section 21 of the Code of Criminal Procedure empowers the Chief Presidency Magistrate to frame rules from time to

time, with the previous sanction of the State Government, to regulate ;-

(a) the conduct and distribution of business and the practice in the Courts of the Magistrates of the town;

(b) the times and places at which Benches of Magistrate shall sit;

(c) the constitution of such Benches;

(d) the mode of settling differences of opinion which may arise between Magistrates in session, and

(e) any other matter which could be dealt with by a District Magistrate under the general powers of control over the Magistrates subordinate to

him.

It is abundantly clear from the language of this section that the rules framed by the Chief Presidency Magistrate by virtue of the powers conferred

on him under that section are merely for the purpose of regulating the conduct and distribution of business and the practice in the Courts of the

Magistrates of the town. Such rules cannot limit or circumscribe the powers that the Magistrates have by virtue of their appointment as Presidency

Magistrates. It is for the purpose of regulating the conduct of business and the distribution of work that the Chief Presidency Magistrate is

empowered to frame rules u/s 21 and he could frame rules only for regulating the conduct and distribution of business among the Presidency

Magistrates. In other words, he cannot limit the powers which the Presidency Magistrate gets on his appointment as a Presidency Magistrate

which powers are conferred upon him by the statute itself. Therefore, it cannot be argued at all that, inasmuch as under the rules framed by the

Chief Presidency Magistrate u/s 21, the offence of which the revision petitioner has been convicted is not one of the offences specified in Rule 8,

the Special Honorary Presidency Magistrate, who has all the powers of a Presidency Magistrate vested in him under the Code on his appointment

as such and who is empowered to sit singly has no power to try such an offence or to convict a person for that offence. The Government Order

under which this Traffic Mobile Court was constituted itself says that the Mobile Court was constituted for the purpose of trial of traffic offences.

The offence of which the petitioner has been convicted is traffic offence. The Chief Presidency Magistrate by framing rules u/s 21, has no doubt

allocated to the Traffic Mobile Court presided over by the Special Honorary Presidency Magistrate the work of trying only some of the traffic

offences which are quite petty in nature. But that does not mean that by reason of such an allocation of a specific work to him, the powers of the

Special Honorary Presidency Magistrate are limited to the trying of only those cases, when the statute itself has conferred on him all the powers of

a Presidency Magistrate. Hence it cannot be contended on behalf of the petitioner that the Magistrate had no jurisdiction or power to try the

revision petitioner for that offence or convict him.

3. The conviction is therefore correct. The sentence is not harsh, and calls for no

interference. The Criminal Revision case is therefore dismissed.