
(1923) 10 MAD CK 0010
In the Madras High Court
In Re: S. Tirumala Reddi

Date of Decision : 04-10-1923

Acts Referred:

Citation : AIR 1924 Mad 540 : (1924) ILR (Mad) 396 : (1924) 19 LW 292 : (1924) 46 MLJ 40

Hon'ble Judges : Walter Salis Schwabe, J; Waller, J

Bench : Division Bench

Judgement

Walter Salis Schwabe, K.C.C.J.

1. This is a reference by the District Magistrate of North Arcot, u/s 438 of the Code of Criminal Procedure, in relation to a conviction by the Sub-

Magistrate of Gudiyattam of one Tirumala Reddi u/s 179, of the Indian Penal Code, he being fined Rs. 10, in default seven days" simple

imprisonment.

2. The facts appear to be that the accused had been summoned for some offence before the Village Panchayat Court at Kandiapedu, he being

charged with instigation to beat. On being charged before that Court, he said he would not make any reply and remained silent. The Panchayat

Court thereupon sanctioned the prosecution of the accused u/s 179 of the Indian Penal Code. Section 179 runs:

Whoever, being legally bound to state the truth on any subject to any public servant, refuses to answer any question demanded of him touching that

subject by such public servant in the exercise of the legal powers of such public servant, shall be punished.

3. The procedure before the Panchayat Court is governed by the Madras Act II of 1920 and the rules made in pursuance of Section 78 of that

Act. The rules have been published and are to be found in Government Order No.

572 of 1920, dated the 2nd of March 1920, published in the Fort St. George Gazette. By Rule 36

If the accused pleads not guilty or declines to plead, the Court shall proceed to examine the complainant, if any, the witnesses for the prosecution and the witnesses of the accused.

4. Those rules make the procedure of this Bench Court precisely the same in respect of the pleading of the accused as the provisions of the

Criminal Procedure Code which apply to other Courts in this country. As far as this matter is concerned, they come to this, that an accused is not

bound to answer any question put to him at all and can, if he likes, decline to plead, and, if he declines to plead, the case goes on just the same. In

my judgment, Section 179 of the Indian Penal Code has nothing whatever to do with the conduct of accused persons in Court. What they have to

do and what they have not to do is provided by the Code of Criminal Procedure, where it applies, and by the rules governing a Panchayat Court

where they apply. This conviction of the accused u/s 179 of the Indian Penal Code was entirely wrong. No offence under that section has been

committed. The order of conviction must, therefore, be set aside and the fine, if paid, must be refunded.

5. Panchayat Courts have got ample powers to deal with such cases. They can simply go on with, the case. Having heard the evidence, if they

choose to convict, their conviction will be perfectly in order, although the accused has failed to plead and although the accused by his demeanour

has been contemptuous of the Court which has been trying him.

Waller, J.

6. I agree to the order proposed. It is quite clear that Section 179 of the Indian Penal Code has no application to a refusal to plead to a charge.