

(1922) 10 MAD CK 0008
In the Madras High Court

In Re: Sikka Goundan and Others

Date of Decision : 13-10-1922

Acts Referred:

Citation : AIR 1923 Mad 326 : 72 Ind. Cas. 351 : (1923) 17 LW 69

Hon'ble Judges : Oldfield, J;Devadoss, J

Bench : Division Bench

Judgement

1. There is before us, first, an application for the transfer of C.C. No. 2 of 1921, from the file of the Village Magistrate of Keeripatti to any other

Village Magistrate and, next, an application for quashing the Village Magistrate's proceedings in that case. The relief asked for in the latter

application is described somewhat inaccurately. For it does not appear that there are any proceedings by the Village Magistrate, which can be

quashed or set aside. What has happened is that the Village Magistrate received an oral complaint against the petitioners and issued process to

them thereon. They did not comply with that process on the ground that the occurrence in question did not take place within the Magistrate's

jurisdiction and he had no power to issue process in respect of it. On that default the Village Magistrate filed a complaint against them, which was

heard, of an offence punishable u/s 174, Indian Penal Code. In dismissing that complaint, the Sub-Magistrate accepted the petitioners contention

that the Village Magistrate had no jurisdiction. Afterwards, however, the Village Magistrate took a sworn statement from, the complainant, in

which it was alleged that the occurrence was within his jurisdiction, and now proposes to proceed with the trial. It is not disputed that the offence

referred to in the sworn statement just mentioned was identical with the offence which was the subject of the oral complaint.

2. The fact that the complainant in the sworn statement alleged that the occurrence took place within the jurisdiction is, of course, of no avail whatever. We have, how-ever, a judicial decision, no doubt in collateral proceedings, still, one of which, in our opinion, we can in proceedings such as these legitimately take account, that the occurrence was outside the Village Magistrate's jurisdiction; and we accept, that decision as the basis for our conclusion. So accepting it, we clearly cannot transfer this case, which is at present in a Court without jurisdiction and, therefore, has never been legally instituted [See *Ledgard v. Bull*: 4 Sar. P.C.J. 741 : 5 Ind. Dec. 561] to any other Court.

3. To turn then to the petition to quash the proceedings, for the reasons given we cannot comply with it literally. In the circumstance, however, we think we are justified with reference to our inherent powers of superintendence in directing the Village Magistrate of Keeripatti not to proceed further with the complaint of Muthuswami Goundan at present pending before him. It will be for Muthuswami Goundan, if hīḷ½ is so minded, to file anew complaint in any competent Court.