

(1946) 03 MAD CK 0041
In the Madras High Court

Jaldu Manikyala Rao and Others

APPELLANT

Vs

Nimmagadda Venkatappayya

RESPONDENT

Date of Decision : 07-03-1946

Acts Referred:

Citation : AIR 1946 Mad 447 : (1947) ILR (Mad) 234 : (1946) 59 LW 300 :
(1946) 1 MLJ 443

Hon'ble Judges : Kuppuswami Ayyar, J;Kuppuswami Aiyar, J

Bench : Division Bench

Judgement

Kuppuswami Ayyar, J.—This is a petition to revise the order of the Additional First Class Magistrate of Masulipatam, dismissing the petition

of the petitioners stating that they cannot be compelled to execute bonds for appearance and that they cannot be compelled to appear in Court

merely because they happen to be parties to proceedings u/s 145 of the Code of Criminal Procedure. I do not think the Magistrate was right in

saying that he can compel parties in proceedings u/s 145 to appear in Court. It may be open to him to summon them as witnesses if they are

wanted either as Court witnesses or witnesses for the other side. But then they will be attending Court as witnesses and not as party. Even under

the preliminary order it is stated that the respondents were to appear either in person or by pleader. The Magistrate himself had permitted them to

appear by pleader and that order has not been cancelled. The Magistrate therefore was not justified in insisting upon the attendance of these

petitioners if they are not willing to appear in Court but are content with appearance by pleader. Further if they do not appear and let in evidence,

then the case will be disposed of ex parte after taking the evidence that may be let in by the other side. In these circumstances the order of the

Magistrate insisting upon their appearing in person and executing bonds is incorrect and is therefore set aside.