
(1895) 09 MAD CK 0001
In the Madras High Court

Ramachandra Raju

APPELLANT

Vs

Subramania Pillai and Others

RESPONDENT

Date of Decision : 17-09-1895

Acts Referred:

Criminal Procedure Code, 1898 (CrPC) — Section 478

Citation : (1895) 5 MLJ 226

Judgement

1. The petition presented to the Sessions Judge of Tinnevely prayed him u/s 435 to call for the records and revise the order of the District Munsif

of Ambasamudram, dated April 29th, and to direct the stay of proceedings in the case pending the disposal of the petition. By his order of April

29th, the District Munsif had resolved u/s 478, Criminal Procedure Code, to complete himself the enquiry into a charge of forgery alleged against

the petitioners and to commit the case to the Sessions Court, if a prima facie case were made out. The forgery alleged to have been committed

was in respect to certain beat-tickets filed for the defence in Small Cause suit No. 151 of 1895 on his file. By the same order the District Munsif

ordered warrants of arrest to issue.

2. This petition was presented to the Sessions Judge on May 1st, and on the same day he passed an order calling for the records and directing the

District Munsif to stay proceedings, observing that as party spirit was running high in Ambasamudram, and that as the District Munsif had already

decided the beat-ticket was a forgery, it was desirable that the case should be heard before some other tribunal.

3. We are of opinion that the order of the District Judge was without jurisdiction. The question is whether a District Munsif acting u/s 478, Criminal

Procedure Code, is an "inferior Criminal Court," within the meaning of Section 435. As a District Munsif he is no doubt a Civil Court, but not as

such amenable to the jurisdiction of the Sessions Judge. The language of Section 478 does not constitute the District Munsif a Criminal Court

within the description of Section 6 of the Code of Criminal Procedure, nor does the section declare the District Munsif to be a Magistrate of any

class whatsoever. It is provided that for the purposes of an enquiry under that section he may exercise all the powers of a Magistrate, that his

proceedings shall be conducted as nearly as may be in accordance with the provisions of Chapter XVIII, i.e., as if he were a committing

Magistrate, and that those proceedings shall be deemed to have been held by a Magistrate. This language appears to us to imply that the District

Munsif is not a Magistrate; otherwise there would be no need to provide that his proceedings should be conducted, as if he were a Magistrate and

should be deemed to have been held by a Magistrate.

4. This view is strengthened by the provisions of Section 479 which enacts that the Civil Court shall send the charge with the order of commitment

and the record to some Magistrate authorized to commit for trial which clearly indicates that the Civil Court is not on the same footing as a

Magistrate.

5. We are of opinion that though certain magisterial powers have been given to a District Munsif u/s 478 for the purpose of investigating cases of

contempt of Court, he still remains, while exercising those powers, a Civil Court and is not an inferior Criminal Court within the meaning of Section

435. On this ground the order of the Sessions Judge must be set aside.

6. It is to be regretted that the Sessions Judge should have expressed any opinion on the merits on an ex-parte application.

7. There is at present no application before the High Court to interfere on revision, though the High Court can no doubt exercise such power:--

Abdul Khadur v. Meera Saheb ILR (1892) M 224 : MLJ 148 Ghaudhari Mahomed Izharul Huq v. The Queen Empress ILR (1892) C 349 But

we think it right to express our opinion that the case is one in which the District Munsif should have released the petitioners on bail. They are public

servants and there does not appear any reasonable ground for apprehension that they will evade enquiry by absconding from the District.