

(1950) 11 MAD CK 0018

In the Madras High Court

Case No : Criminal Revision No. 1334 of 1950 and Cri. Revision Petition No. 1262 of 1950

Ramiah and Others

APPELLANT

Vs

Nachiappa Chettiar and Others

RESPONDENT

Date of Decision : 14-11-1950

Acts Referred:

Criminal Procedure Code, 1898 (CrPC) — Section 145, 145(4)

Citation : AIR 1951 Mad 764 : (1951) 2 MLJ 30

Hon'ble Judges : Somasundaram, J

Bench : Single Bench

Advocate : K. Veeraswami and John Arthurs, P.P, for the Appellant; V. Ramaswami Iyer, for the Respondent

Final Decision : Dismissed

Judgement

Somasundaram, J.—u/s 145, Clause (4), Cr. P. C. the Ct. has a right to attach the property in dispute & under Sub-clause (8) of Section

145, Cr. P. C. if the Mag. is of opinion that any crop or other produce of the property, the subject of dispute is subject to speedy & natural

decay, he may make an order for the proper custody or sale of such property & after the completion of the enquiry he may make such order as to

the disposal of such property as he thinks fit.

2. Now, in this case the learned Mag. was perfectly justified in attaching the property in dispute as he considered this case as one of emergency.

But it is contended for the petnr. that the Tahsildar through whom the property was attached has no right to lease the land nor has the Ct. power to

lease it out pending disposal of the proceedings u/s 145, Cr. P. C.

3. As pointed out by Sankaran Nair J. in Srinivasa Pillai v. Sathayappa Pillai, 14 I.

C. 759 : 13 Cri. L. J. 295 Mad., the Receiver or Officer

appointed u/s 145 (4) , Cr. P. C., has not got the same powers as receiver u/s 146, Cr. P.C. In the latter case, he has all the powers of a receiver

appointed under Civil P. C. but in the former case his powers are limited & they are restricted to the taking into custody of what is on the land &

disposing it of under the orders of the Mag. There can, therefore, be no leases by the Tahsildar appointed to attach the land. But it is open to him

to take security from those who are willing to cultivate the land & the security can be taken from those who are willing to give highest security.

Whoever cultivates the land after giving such security does so under orders of Ct. & will abide by the orders of Ct.

4. With these observations, the criminal revision petn. is dismissed.