

(1916) 12 MAD CK 0001

In the Madras High Court

Case No : Criminal Revision Case No. 847 of 1916 (Criminal Revision Petition No. 690 of 1916)

Santhappa Sethuran and Eleven Ors.

APPELLANT

Vs

Govindaswamy Kandiyar

RESPONDENT

Date of Decision : 19-12-1916

Acts Referred:

Criminal Procedure Code, 1898 (CrPC) — Section 528

Citation : (1916) 12 MAD CK 0001

Hon'ble Judges : Napier, J; Ayling, J

Bench : Division Bench

Advocate : V. Viswanatha Sastriyar, for the Appellant; S. Swaminathan, P.R. Narayanaswami Ayyar, for E.R. Osborne, Actg. Public Prosecutor for Crown, for the Respondent

Final Decision : Dismissed

Judgement

Ayling and Napier, JJ.—In this case, we are asked to revise an order of the Additional District Magistrate of Tanjore transferring three

criminal cases at the request of a party from the file of the Second-class Magistrate of Valangiman to that of the Stationary Second-class

Magistrate of Papanasam u/s 528 of the Code of Criminal Procedure.

2. The main ground put forward is that the Subdivisional Magistrate having previously refused to transfer the cases at the request of the same

party, the District Magistrate was precluded from exercising his power of transfer. Petitioners' vakils admit that it would have been open to the

District Magistrate to make the transfer on his own initiative, irrespective of any previous order of the Subdivisional Magistrate.

3. We can find nothing in Section 528 of Code of Criminal Procedure supporting Petitioners' contention: and the judgment of a Bench of this Court

in Thaman Chetti v. Alagiri Chetti ILR (1891) Mad. 399, is distinct authority against him. Petitioners rely on the decision of Bhashyam Ayyangar,

J., in Raghunatha Pandaram v. King-Emperor ILR (1903) Mad. 140, which has been followed in a recent unreported case--Narayanaswamy

Ayyar v. Kuppuswamy Ayyar Criminal Revision Case No. 487 of 1916. So far as appears the decision in Thaman Chetti v. Alagiri Chetti ILR

(1891) Mad. 399, was not brought to the notice of the learned Judge in Raghunatha Pandaram v. King-Emperor ILR (1903) Mad. 140: and with

great deference we are unable to agree in the view taken by him. The distinction in this respect between orders passed by the District Magistrate

suo motu and orders passed on petitions by parties appears to us to be without foundation.

4. No other valid reason is shown for our interference: and we dismiss the petition.