

(1959) 07 KL CK 0050
In the High Court Of Kerala
Case No : Criminal Ref. No. 8 of 1958

State	Vs	APPELLANT
Kochu		RESPONDENT

Date of Decision : 24-07-1959

Acts Referred:

Citation : (1959) KLJ 1073

Hon'ble Judges : K. Sankaran, C.J;Anna Chandy, J

Bench : Division Bench

Advocate : M. Bhaskara Menon and T.V. Prabhakaran, for the Respondent

Judgement

K. Sankaran, C.J.—The Learned Counsel appearing for the respondents now objects only to the direction made by the learned Magistrate that the counter-petitioner should replace the

at the eaves of his building so as to prevent the flow of rain water on to the petitioner's building. This part of the order relates to certain disputes of a personal and private nature as between the parties. In respect of such disputes, the aggrieved party has to seek redress through the normal remedies available under law. Accordingly that part of the Magistrate's order is cancelled. Regarding the other portion of the Magistrate's order to cut and remove a tree which was in a dangerous condition, the position is different. The position of the tree, as found by the Magistrate, was such that it could fall down on the neighbouring building resulting in serious threat to the lives of the inmates of the house. To avert such a possible danger is the duty of the Magistrate. The danger is really a public nuisance and cannot be characterised as a danger to any particular individual only. We are therefore of opinion that the Magistrate's order directing the cutting and removal of such a tree standing in a dangerous condition was just and proper and it calls for no interference. Accordingly that portion of the order will stand. The reference is answered in the above terms.