

Chinnappa Eshwarappa Vs. State of Mysore

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Court : Karnataka

Decided On : Dec-24-1959

Reported in : AIR1960Kant242; AIR1960Mys242; 1960CriLJ1226a

Judge : K.S. Hegde, J.

Acts : [Prevention of Corruption Act, 1947](#) - Sections 5-A; [Code of Criminal Procedure \(CrPC\), 1898](#) - Sections 12

Appeal No. : Criminal Revn. Petn. No. 443 of 1959

Appellant : Chinnappa Eshwarappa

Respondent : State of Mysore

Judgement :

ORDER

(1) The point that arises for consideration in this revision petition is whether a First Class Magistrate appointed to a district can issue orders under S. 5-A of the [Prevention of Corruption Act, 1947](#) (which shall be hereinafter called the 'Act') for investigation of a case under S. 161 of the Indian Penal Code, if the offence in question has been committed in a place outside his local area as defined under S. 12, Cr.P.C.

(2) The order in question relates to an offence which is said to have taken place outside the local area of the Magistrate. The petitioner is prosecuted before the

Special Judge at Dharwar for an offence under S. 161, I.P.C. The investigation in the case was conducted by the P. S. I., A. C., and P. I., Dharwar. The offence is alleged to have taken place in Karajig, which is within the local area of the Judicial Magistrate, First Class, Haveri. But orders for investigating into the case were given by the First Class Magistrate at Dharwar. Both Haveri and Dharwar are in the same war. Both Haveri and Dharwar are in the same direct, i.e., Dharwar district. The petitioner contends that the First Class Magistrate at Dharwar had no jurisdiction to order investigation in the instant case as his jurisdiction did not extend to Haveri area. Section 5-A of the 'Act' reads as follows :

'Notwithstanding anything contained in the Code of Criminal Procedure, 1898, (Act V of 1898), no police officer below the rank.

(a) in the Presidency Towns of Madras and Calcutta, of an Assistant Commissioner of Police.

(b) in the Presidency Town of Bombay, of the Superintendent of Police, and

(c) elsewhere, of a Deputy Superintendent of Police.

shall investigate any offence punishable under Section 161, Section 165 or Section 165-A of the Indian penal Code, (Act 45 of 1860) or under sub-section (2) of Section 5 of this Act, 'without the order of a Presidency Magistrate or a Magistrate of the First class,' as the case may be, or make any arrest therefor without a warrant.' (Underlining (here in single quotation marks--Ed.) is mine).

Section 5-A does not say that that Magistrate issuing orders under that section should be a Magistrate having power to try that case. All that it stipulates is that he must be a Magistrate of the First Presidency Magistrate or a Magistrate of the First Class. Magistrates are appointed under S. 12 of the Code of Criminal Procedure. Section 12 reads as follows :

'(1) The State Government may appoint as many persons as it thinks fit besides the District Magistrate to be a Magistrate of the first, second or third class in any district outside the Presidency towns; and the State Government or the District Magistrate, subject to the control of the State Government, may from time to time,

define the local areas within which such persons may exercise all or any of the powers with which they may be respectively invested under this Code.

(2) Except as otherwise provided by such definition, the jurisdiction and powers of such persons shall extend throughout that district.'

Ordinarily, a Magistrate appointed to a District has jurisdiction over the entire district. But the exercise of all or any of the powers conferred on him under the Criminal Procedure Code may be restricted to any particular area. The powers under S 5-A of the 'Act' are not the powers conferred on him under the Criminal Procedure Code. That being so, any Magistrate of the First Class appointed to a district, can exercise that power in respect of all offences committed in the District to which he is appointed. Even otherwise, it is not the petitioner's case that either the State Government or the District Magistrate had excluded any area in the Dharwar district from the jurisdiction of the First Class Magistrate, at Dharwar. Mere definition of his local areas is not the same thing as excluding any particular area is not the same thing as excluding any particular area from his jurisdiction. *Gulabrao Laxmanrao v. Emperor* AIR 1935 Bom 409. I have followed this decision in Cr. R. P. No. 288 of 1959(Mys).

(3) No other point needs consideration. In the result, the petition is dismissed.

(4) Petition dismissed.