

In Re: Kuppa Reddiar and ors.

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Court : Chennai

Decided On : Mar-20-1924

Reported in : (1924)47MLJ232

Appellant : In Re: Kuppa Reddiar and ors.

Judgement :

Venkatasubba Rao, J.

1. The petitioners were convicted of an offence under Section 342 of the Indian Penal Code, namely, that of wrongful confinement. What the accused actually did is described in the following words by the lower Court : ' Accused 2 and accused 4...dragged him (the complainant) towards accused 1, his hands were tied....'

Again

He...testifies that accused 2 and 4....beat P.W. 1 at the instance of accused 1 and then tied his hands and pushed him westwards. D. W. 3 testifies to the use of violence.

2. The Magistrate made an order under Section 106 of the Cr. P. Code directing each of the accused to execute a bond with sureties for keeping the peace during a period of 12 months.

3. On behalf of the petitioners it has been contended that the order directing the accused to keep the peace was improperly made as the offence in respect of which the accused were convicted does not involve a breach of the peace.

4. Section 106 so far as it is material for the present purpose runs thus:

Whenever any person accused of any offence punishable under Chapter VIII of the Indian Penal Code (Chapter VIII deals with offences against public tranquillity)...or of assault or other offence involving a breach of the peace...is convicted of such offence before a High Court;

And such Court is of opinion that it is necessary to require such person to execute a bond for keeping the peace;

Such Court may, at the time of passing sentence on such person, order him to execute a bond....

5. This section in my opinion implies that offences against public tranquillity and the offence of assault involve a breach of the peace. If nothing more is proved than that one of these offences has been committed, the section applies. The next question is what do the words 'other offence' mean. In my opinion the offences intended are those ejusdem generis with the offences against public tranquillity and of assault which are mentioned in the section. Under the section the offence must involve a breach of the peace. These words must receive their ordinary and natural meaning. A thing is involved in another when it is necessarily included in or implied in it. In 'assault' a breach of the peace enters as a necessary element. It is an ingredient of the offence. In my opinion the section applies when the offence amounts to or constitutes a breach of the peace; in other words, when breach of the peace is a component part or an ingredient of the offence. The very fact that a man commits rioting or assault constitutes a disorder, a disturbance of the King's peace, general peace of the realm. The words 'breach of the peace' in the section are the antithesis of the other set of words also occurring in the section 'keeping the peace.' The words 'keeping the peace' connote preservation of the public peace and are the direct opposite of the words 'breaking the peace.'

6. In my view, therefore, the question to be answered in each case is, does the offence brought home to the individual necessarily include or imply a breach of the peace, or, does it constitute or amount to a breach of the peace. If it does, the section applies.

7. I am not prepared to accept the construction placed upon the words in some of the cases cited at the bar, namely, that apart from the offence there must ensue a breach of the peace. If the legislature had intended to lay down a rule of that kind, entirely different words would have been used. It would then have said ' any person accused of any offence punishable under Chapter VIII or of assault or other offence when the commission of such offence leads to a breach of the peace. ' In my opinion it is of the essence of the offence that a breach of the peace is committed. In committing the offence of which the offender is found guilty he necessarily has also broken the peace.

8. Then the next question is:

Is it intended by the section that each of the offences described in the Indian Penal Code should fall under the category of either ' offences involving a breach of the peace ' or offences of the opposite description I do not think either is desirable or possible. The facts constituting an offence must be looked at for determining whether the offence comes within the section or not. The present case is in point and strikingly illustrates what I mean. ' Wrongful confinement per se is not an offence involving a breach of the peace. If, for example, a person happens to be in a room in his own house and another by locking the room on the outside, confines the person within the room and makes egress impossible, all the elements necessary for constituting the offence of wrongful confinement are present. But this involves no breach of the peace but on the contrary if, as has happened in the present case, the offenders in a cocoanut garden using violence seizes another and ties his hand, I am clearly of the opinion that the offence as proved does involve a breach of the peace.

9. Several authorities were cited, but I do not think that any useful purpose will be served by my discussing the various conflicting rulings bearing on the subject and opposite and different interpretations placed upon the words in the section, but

however I would add that I follow Cr. Appeal No. 1600 of 1922, a decision of Spencer, J., and that I respectfully dissent from In re Tirumala Reddy 30 MLT 34830 decided by Kumaraswami Sastri, J.

10. The order therefore directing the accused to execute a bond for keeping the peace was rightly made.

11. As regards the merits of the case some points were urged before me, but I am not prepared to uphold any of the contentions and in the result the Criminal Revision Case fails and is dismissed.

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