

**In Re: Veerappa Moopan**

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**SooperKanoon Citation :** [sooperkanoon.com/775239](http://sooperkanoon.com/775239)

**Court :** Chennai

**Decided On :** Jan-19-1939

**Reported in :** AIR1939Mad496; (1939)1MLJ573

**Appellant :** In Re: Veerappa Moopan

**Judgement :**

ORDER

**Pandrang Row, J.**

1. This is a reference by the District Magistrate, Trichinopoly, recommending that the proceedings of the Sub-Magistrate, Turaiyur, in C.C. No. 245 of 1938 on his file may be quashed.
2. There is no doubt that the proceedings Were wholly misconceived and ought to be quashed.
3. In brief, the proceedings started with a complaint by the police against a certain person for offences under Sections 447 and 188, Indian Penal Code, in respect of a certain act which was said to have constituted disobedience of the orders of the Sub-Magistrate, issued under Section 144 of the Criminal Procedure Code. In other words, the very Sub-Magistrate whose orders are said to have been disobeyed by the accused tried the alleged offender, and there was no previous complaint by that Magistrate or by his superior; the accused was tried and convicted by the same Magistrate. Fortunately on certain grounds the Sub-

Magistrate thought fit to make a reference to the Sub-Divisional Magistrate for taking action against the accused under Section 562, Criminal Procedure Code, and the illegality of the proceedings was discovered by the Sub-Divisional Magistrate to whom the reference was made. The illegality is in fact clear and was so to say, admitted by the Sub-Magistrate after it was pointed out to him. It is obvious that there should have been no cognizance taken of this case without a proper complaint as enacted by Section 195, Criminal Procedure Code, and in any case the Sub-Magistrate should not have heard and decided the case himself. He was disqualified from trying the case and he should have certainly not tried the case himself.

4. The proceedings before him are therefore quashed and his reference to the Sub-Divisional Magistrate after recording a finding that the accused is guilty under Sections 447 and 188 is set aside. In view of the nature of the act alleged, it is unnecessary and inexpedient that there should be any further proceedings against the accused in this case.

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