

In Re: Rukku

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SooperKanoon Citation : sooperkanoon.com/776568

Court : Chennai

Decided On : Apr-17-1958

Reported in : 1958CriLJ1195

Judge : Ramaswami, J.

Appellant : In Re: Rukku

Judgement :

ORDER

Ramaswami, J.

1. The procedure adopted in this case by the Magistrate must be put an end to at once. In this case a woman by name Rukku pleaded guilty to an offence under Section 75, City Police Act, and, was fined Rs. 3/-. She was given a default sentence of three days simple imprisonment. -In addition, the Magistrate bound her over in her own bond in a sum of Rs. 10/- to keep the peace for six months under Section 106,. Criminal P.C.

2. The correct procedure would have been to ask her before leaving the court whether she was willing to execute the bond and then take her signature thereto because naturally she would have no objection, unless she was appealing or filing a revision petition, to sign the bond. That meant she would have had to pay the fine only.

In the case of fine also time should have been given for the payment of the fine because it will be wholly improper to expect accused persons to anticipate what would be the fine to be imposed upon them by the Magistrate & also come to court furnished with the requisite fine. If time were given naturally the woman would go back after executing the bond, collect the necessary amount, and, pay the fine.

If she did not, a warrant might be issued for her apprehension and she will be committed to jail to undergo the default sentence. In fitting cases distraint warrants may also be issued even after she had undergone the period of sentence to realise ' the fine amount. But, instead of doing so this unfortunate woman has been sent to the Penitentiary and has been there for a considerable period until this matter came to the notice of this Court.

3. I must say that this is not the first time when it has come to my notice and I have been trying to correct this mischief. It is to be hoped that the Chief Presidency Magistrate will issue necessary instructions to all his Magistrates, Honorary and Stipendiary, not to convert the power under Section 108, Criminal P. C, and give as it were a substantial supplementary period of imprisonment which is not warranted by the Criminal Procedure Code.

I have already in several decisions adverted to this and pointed that Section 106, Criminal P. C, is not intended to inflict a punishment which the Magistrate is not competent to inflict under the statute itself.

4. The only redeeming feature in this case is that this woman is stated to have been released since. So, no further action is called for excepting to draw the pointed attention of the Chief Presidency Magistrate to my remarks above for his taking prompt action to bring it to the notice of all his Magistrates.

I need not point out that if this is repeated this Court will not hesitate to take severe action against the concerned Magistrates playing with the liberty of the citizens and incarcerating them in a manner not warranted by law.