

Queen-empress Vs. Krishtappa

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Court : Chennai

Decided On : Oct-16-1896

Reported in : (1897)ILR20Mad31

Judge : Subramania Ayyar and ; Boddam, JJ.

Appellant : Queen-empress

Respondent : Krishtappa

Judgement :

1. The accused, the karnam of Maravapalli village, on being summoned by the Tahsildar of Gooty to appear before him at Gooty on a particular day, failed to attend. For the non-attendance he was convicted under Section 174, Indian Penal Code. It appears that, on the day fixed, the Tahsildar was absent from the station on public business.

2. Now it is manifest that the offence contemplated by the Section is not an omission on the part of the person summoned to be at a particular place and at a particular time, but an omission to appear at such time or place before a specified public functionary. Moreover the object of the summons was the meeting between the two. How could this object be realised unless the person summoning was present to meet the persons summoned? Would it not have been futile, even if the latter turned up at the fixed place? But the law compels no man to do that which is futile or fruitless. *Lex neminem cogit ad vana seu inutilia per agenda*. No doubt in

this case the accused did not say that he failed to go to Gooty because of the Tahsildar's absence. Assuming that he intended to disobey the summons, such intention alone is, of course, not punishable under Section 174, or under any other provision of law.

3. We, therefore, set aside the conviction and order the fine, if levied, to be refunded.

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