

In Re: Moosa

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Court : Chennai

Decided On : Mar-21-1956

Reported in : (1956)1MLJ567

Appellant : In Re: Moosa

Judgement :

ORDER

Somasundaram, J.

1. This is a reference by the District Magistrate of South Arcot, Guddalore, under the following circumstances:

2. In C.C. No. 3734 of 1955 on the file of the Sub-Magistrate, Villupuram the accused was convicted for an offence under Section 379, Indian Penal Code. As the accused was aged only 12 years, the Sub-Magistrate followed the procedure laid down under Rule 3 of the rules framed under the Madras Children. Act. That is, he followed the summons procedure, though this is a warrant case. On the admission of the offence by the accused, the Sub-Magistrate committed the accused to the custody of the grandfather, who was present in Court, under Section 28(b) of the Madras Children Act. The learned District Magistrate seems to think that the summons procedure can apply only to the offences under the Children Act and not to the offences under the Indian Penal Code. Section 28 of the Madras Children Act clearly provides:

Where a child or young person charged with any offence (Italics is mine) is tried by any Court, and the Court is satisfied of his guilt, the Court shall take into consideration the manner in which, under the provisions of this or any other Act enabling the Court to deal with the case, the case should be dealt with namely, whether,

(a)....

(b) by committing the offender to the custody of his parent, guardian, or any adult relative, on such parent, guardian, or relative executing a bond to be responsible for his good behaviour....

3. The section, therefore, refers to the fact of a child or young person charged with any offence being tried by any Court. It is not restricted only to juvenile Courts; but it is applicable to all the Courts; and the offence is not restricted to the offence under the Madras Children Act. In fact I do not know if there is any offence committed under the Madras Children Act. The Act provides only for the procedure to be followed in cases where the children are brought before the Court in connection with the commission of any offence. The offence, therefore, means the offence under any law. I am unable to understand how the District Magistrate thinks that the offence means the offence under the Children Act, when in fact there is no such offence under the Madras Children Act. The order of the Sub-Magistrate is correct and the reference is returned to the District Magistrate.

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