

In Re: Krishna Pillai and ors.

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Court : Chennai

Decided On : Jul-17-1922

Reported in : AIR1923Mad134; (1922)43MLJ555

Appellant : In Re: Krishna Pillai and ors.

Judgement :

ORDER

1. The order before us is one passed by the District Magistrate under Section 437, Cr.P.C. ordering further enquiry into a case in which the petitioners were discharged. The occurrence in question in that case took place on 26.7.1920. It is unnecessary to go in detail into the subsequent progress of the proceedings. The petitioners were once convicted and on their conviction being set aside by the Sessions Judge, were retried. That retrial order is an order of discharge which the District Magistrate has set aside in the order before us.

2. The facts for investigation amounted to a petty riot between the members of two factions in a village in the Madura District. In the course thereof a certain amount of violence seems to have been used and stones were thrown; but no injuries of any gravity were inflicted and, as far as appears, there is no question of any loss of valuable property. The evidence as far as we can judge of it, from the records before us, was of the kind usual in such cases and of no special strength. The District Magistrate's order is based on criticisms of the reasoning in the order of discharge which are very possibly well founded. But he has entirely failed to consider the essential matter, the prospect of any public advantage from the case

being reopened. The prospect in our opinion is exceedingly small. In view of the period of 2 years, which has elapsed since the occurrence, its comparatively insignificant character and the nature of the evidence available, we think that the order of the District Magistrate, passed without regard to what is really the material consideration in cases of this kind, was passed without jurisdiction.

3. We therefore set it aside in the exercise of our powers of revision.

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