

Somu Pillai Vs. Krishna Pillai

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Court : Chennai

Decided On : Apr-25-1924

Reported in : AIR1924Mad899; (1924)47MLJ481

Appellant : Somu Pillai

Respondent : Krishna Pillai

Judgement :

ORDER

Devadoss, J.

1. This is an application to revise the order of the Sessions judge of South Arcot in Criminal Miscellaneous Petition No. 19 of 1923. The complainant, Somu Pillai, brought a case of theft of bulls against the accused in the Court of the Second Class Magistrate of Chidambaram Taluq. The Sub-Magistrate convicted the accused and directed the bulls to be handed over to the complainant. The accused appealed to the Sub-divisional Magistrate of Chidambaram who acquitted the accused and declined to interfere with the order of the Sub-Magistrate regarding the bulls. Against this order of the Deputy Magistrate an appeal was preferred to the Sessions Judge of South Arcot Division, who set aside the order of the Divisional Magistrate and directed the bulls to be handed over to the accused. It is urged before me that the Sessions Judge had no power under Section 520 to vary the order of the Sub-divisional Magistrate. Section 520 is in these terms:--'Any

Court of appeal, confirmation, reference or revision may direct any order under Section 517, Section 518 or Section 519, passed by a Court subordinate thereto, to be stayed pending consideration by the former Court, and may modify, alter or annul such order and make any further orders that may be just.' The Court of Sessions of South Arcot is not a Court of Appeal so far as the order of the Second Class Magistrate is concerned. Appeals from the decisions of Second Class Magistrate lie to the District Magistrate and to Sub-divisional Magistrate who are empowered to hear appeals from Second Class Magistrate. So the Sessions Court is not a Court of Appeal so far as the Stationary Magistrate is concerned. It cannot be said to be a Court of Appeal in respect of the order by the Sub-divisional Magistrate. The Sub-divisional Magistrate heard the appeal from the decision of the Second Class Magistrate, and no second appeal lay to the Court of Sessions against the order of the Sub-divisional Magistrate. The Sessions Court is not a Court of confirmation in cases of this kind. It was feebly urged by Mr. Ethiraj that the Sessions Court may be called a Court of reference. I think, a Court of reference means a Court to which references are made and which on references are entitled to go into the matters and dispose of them. The High Court is a Court of reference in jury cases where the Judge differs from the jury. The Sessions Court is not a Court of revision so far as the judgment of the Second Class Magistrate are concerned and the Sessions Court has no revisional powers over the orders of a Divisional First Class Magistrate in appeal cases. Section 520 has therefore no application to the Sessions Court in cases like this. This point came up for decision in Criminal Case No. 236 of 1904 before a Bench of this Court. In that case the Second Class Magistrate convicted the accused and directed the property to be taken possession of by the Forest Officer. This order was made under Section 44 of the Madras Forest Act. On appeal the First Class Magistrate reversed the order of the Second Class Magistrate and acquitted the accused under Section 47 of the Madras Forest Act and made the order which the Sessions Judge took upon himself to revise. The learned Judges held that the Sessions Court was not a Court of appeal, etc., in those circumstances from the First Class Magistrate, and had no jurisdiction to revise the order. I hold that the order of the Sessions Judge is not authorised by Section 520 or any other section of the Criminal Procedure Code. I set aside the order of the Sessions Judge and

direct that the order of the Sub-divisional Magistrate of Chidambaram be given effect to.

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