

In Re: T. Sreeramamurthy

In Re: T. Sreeramamurthy

SooperKanoon Citation : sooperkanoon.com/779270

Court : Chennai

Decided On : Oct-31-1934

Reported in : (1935)68MLJ211

Appellant : In Re: T. Sreeramamurthy

Judgement :

ORDER

Pandrang Row, J.

1. The petitioner in this case was charged by the police with an offence punishable under Section 290, Indian Penal Code. The charge against him was that he committed a public nuisance by arranging a marriage procession with music and by letting off fire-works and thereby disturbing the sleep of the people in the vicinity of Frenchpeta which is part of French territory. The accused objected to the Magistrate's trying the case on the ground that he had no jurisdiction as the alleged offence was committed in Frenchpeta which is part of French territory, and not within British India. The Magistrate overruled the objection on the ground that though the scene of offence is in Frenchpeta the consequence of the offence which formed part and parcel of the offence had ensued in British territory. Apparently the learned Magistrate thought that this was a case within the purview of Section 179, Criminal Procedure Code, which says that when a person is accused of the commission of any offence by reason of anything which has been done, and of any consequence which has ensued, such offence may be inquired

into or tried by a Court within the local limits of whose jurisdiction any such thing has been done, or any such consequence has ensued. The learned Magistrate has failed to take notice of the fact that this section relates to an offence which is an offence by reason of anything that has been done and of any consequence which has ensued. In the present case the offence is one punishable under Section 290, Indian Penal Code and the public nuisance which is made punishable thereby is defined in Section 268, Indian Penal Code. It is the doing of any act or an illegal omission which causes any injury, danger or annoyance to the public in the vicinity or which must necessarily cause injury, obstruction, danger or annoyance. The offence consists of the doing of such an act or of such an illegal omission. The nature of the act or of the omission is described in the section as being one which causes injury, danger or annoyance. The offence is complete when an act of this nature is committed or when there has been an illegal omission of this kind. The fact that some of the persons who were annoyed by the music and fire-works were living in British territory would not give jurisdiction to the Magistrate. Even otherwise, and assuming that Section 179, Criminal Procedure Code would apply to a case of this kind, there is another provision in the Criminal Procedure Code, viz., Section 188 which provides that notwithstanding anything in the preceding sections of Ch. XV, no charge in respect of any offence committed by an Indian subject of the Crown in any place without or beyond the limits of British India shall be inquired into in British India unless the Political Agent if there is one for the territory in which the offence is alleged to have been committed certifies that in his opinion the charge ought to be inquired into in British India and if there is no Political Agent, the sanction of the Local Government shall be required. In this case there has been no such certificate or sanction of the Local Government and the Magistrate had therefore no jurisdiction or authority to inquire into the charge. The proceedings before the Magistrate are therefore quashed as being without jurisdiction.