

**In Re: Ponnusami and anr.**

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**SooperKanoon Citation :** [sooperkanoon.com/780128](http://sooperkanoon.com/780128)

**Court :** Chennai

**Decided On :** Oct-24-1901

**Reported in :** (1906)ILR29Mad517

**Judge :** Benson; and Moore, JJ.

**Appellant :** In Re: Ponnusami and anr.

**Judgement :**

ORDER

1. The District Magistrate has overlooked the change that has been made in the definition of an 'offence' since the ruling of the High Court to which he refers was made. By Section 4(o) of the Criminal Procedure Code as now revised the word 'offence' includes an act in respect of which a complaint may be made under Section 20 of the Cattle Trespass Act. It follows that a person against whom an order under Section 22 of the Cattle Trespass Act is made is a 'person convicted on a trial.' In the present case the accused were 'convicted on a trial' by a Magistrate of the third class.

2. An appeal against that conviction therefore lay under Section 407, Criminal Procedure Code, and there is no ground for our interference.

3. We may add that the Deputy Magistrate was wrong in supposing that he was acting, or had any jurisdiction, under Section 250, Criminal Procedure Code. That section applies to a case in which compensation is awarded to an accused person,

because a frivolous complaint has been made against him. Here compensation was awarded not to the accused but to the complainant, and it was awarded under Section 22 of the Cattle Trespass Act, not under Section 250, Criminal Procedure code.

4. We may also point out to the District Magistrate that in a reference of this kind the essential facts should be briefly stated in the Letter of reference instead of being left to be gathered by the High Court from a perusal of the record.

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