

Queen-empress Vs. Rama

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Court : Chennai

Decided On : Feb-13-1900

Reported in : (1901)ILR24Mad13

Judge : Shephard and ;Davies, JJ.

Appellant : Queen-empress

Respondent : Rama

Judgement :

Shephard, J.

1. The question is whether a direction that a youthful offender shall be 'detained in a Reformatory school for a 'period of five years, unless he shall attain the age of eighteen 'years at an earlier date' is a direction which should properly be made under the provisions of Act VIII of 1897. In respect to time the Act lays down three rules: First, the youthful offender must be a boy under the age of fifteen years at the date of his conviction. In the present case the Magistrate finds that the boy is thirteen years old, Then the Act says the period of detention in the school must not be less than three years and, lastly that the period must not exceed seven years. In order to give effect to these rules the Magistrate is directed by Section 11 of the Act to enquire into the question of age and after taking such evidence as may be deemed necessary, to record a finding thereon stating the boy's age as nearly as may be, and, as it appears from Section 13, the Magistrate is to state the age in

his order of detention. The finding is final in the sense that it cannot be altered on appeal or revision (Section 16). But in case the Magistrate should have made a mistake and understated the age in the order for detention, it is competent to the local Government on the motion and report of the commission of visitors or Board of management to order the removal of the boy if and when he is found to have attained the age of eighteen years. As a general proposition it is clearly the duty of a Magistrate when pronouncing a sentence to define precisely the nature of the sentence intended. Generally, the sentence, like the decree in a civil case, ought, I apprehend, to be self-contained, so that the functionary who has to execute it should have nothing to do but obey the directions given without making any inquiry on his own account. There are no words in the Act that I can find to indicate that the Magistrate acting under Section 8 of the said Act is not to proceed in accordance with this principle. In some cases it is dog necessary to ascertain the exact age of the boy. So long as he is not over fifteen, the Magistrate may rightly fix a period of three years, or if the boy is not over eleven, he may safely fix a period of seven years without further enquiry. But if enquiry is necessary in order to fix the period as it would be when the boy is over eleven and the Magistrate wishes to make the period as long as possible, then, I think the Magistrate must find, as well as he can, the exact age of the boy and he is not at liberty to leave the decision of the question to the Reformatory officials. If this is the Magistrate's duty under the Act, I do not think the notification of Government.¹ can or does make any difference. As -I read the notification the intention was to fix a minimum of five years for all oases in which such a period was legally possible, that is, in all cases where the boy was not over thirteen at the date of conviction, and I do not think it was intended to prevent the Magistrate from fixing a period short of five years, but not short of three years in the case of a boy over thirteen. If the notification is intended to fix an absolute minimum of five years the direction of the Magistrate contravenes it, because he does not find that the boy is under thirteen. I think he was right in directing the detention of the boy in a Reformatory school, but wrong in not fixing the exact period. The Magistrate is directed to amend his order of detention in accordance with this judgment.

Davies, J.

2. I concur.

1 Government of India Notification No. 1076, dated 30th June 1887: In exercise of the power conferred by Section 22 of the Reformatory Schools Act V of 1876, the Governor-General in Council made the following rule for regulating the periods for which Courts and Magistrates in the Madras Presidency may send youthful offenders to a Reformatory school: 'No boy shall be sent to a Reformatory school, if under ten years of age, for a less period than seven years; if over ten years of age, for a less period than five years, unless he shall sootier attain the age of eighteen years.'

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