

In Re: Sri Sri Sri Kandamani Devi

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Court : Chennai

Decided On : Jan-27-1922

Reported in : 66Ind.Cas.330; (1922)42MLJ337

Appellant : In Re: Sri Sri Sri Kandamani Devi

Judgement :

ORDER

1. The 3rd accused is a gosha lady and belonging to a respectable zamindar family of Ghumsur. I am of opinion that the Sessions Judge has power to dispense with the personal attendance of the accused and permit her to appear by pleader during the Session trial Section 205 of the Code of Criminal Procedure empowers a Magistrate to do so and Section 353 of the Code of Criminal Procedure which refers to the mode of recording evidence in trials including sessions trials, states that evidence shall be taken in the presence of the accused except where personal attendance is dispensed with in which case it shall be taken in the presence of his pleader. I do not think that there is anything in the Code to prevent the Sessions Judge from doing what a Magistrate is empowered to do as regards attendance by the accused and Section 353 impliedly gives the power as chap. 23 which relates to trials before High Courts and Courts of Session, is included in Section 353. In Emperor v. C.W. King : (1912)14BOMLR236 it was held that the High Court has power under the provisions of Section 353 of the Code of Criminal Procedure to dispense with the attendance of the accused during the Sessions trial. In Raj Rajeshwari Debi v. King Emperor (1913) 17 Cal. W.N.

1248 Imam and Chapman, JJ. directed Purdanashin ladies to appear by pleader both in the Magistrate and Sessions Courts, subject to their having to appear in court to hear sentence in case of conviction.

2. Having regard to the habits and customs of the country and the social stigma that attaches to gosha ladies breaking purda, I think it will be in the interests of justice that they should not be compelled to appear in public at least until they are convicted.

3. On the merits I think that having regard to the nature of the evidence against the petitioner in the committing Magistrate's court I will be exercising a proper discretion in allowing her to appear by pleader and dispensing with her personal attendance.

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