

**Emperor Vs. Chinnapayan**

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**SooperKanoon Citation :** [sooperkanoon.com/781796](http://sooperkanoon.com/781796)

**Court :** Chennai

**Decided On :** Feb-07-1906

**Reported in :** (1906)ILR29Mad372

**Judge :** Arnold White, C.J.

**Appellant :** Emperor

**Respondent :** Chinnapayan

**Judgement :**

ORDER

Arnold White, C.J.

1. There is no doubt that this case ought to have been tried as a warrant case and not as a summons case. If it had been tried as a warrant case, it would have been the duty of the Magistrate under Section 252 of the Code of Criminal Procedure to take such evidence as might be produced in support of the prosecution; and the accused could not have been called upon to plead until after a charge had been framed and read and explained to him (Section 255).

2. The Magistrate appears to have convicted the accused under Section 243, on an admission made by the accused, without taking any evidence and without framing a formal charge. It seems to me this is something more than an irregularity, and that the accused may possibly have been prejudiced by the procedure adopted by the Magistrate.

3. The conviction must be set aside. As the accused has served his term of sentence, there is no object in ordering a new trial.

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