

**In Re: S. Ramasami Reddi**

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**Court :** Chennai

**Decided On :** Nov-30-1903

**Reported in :** (1904)14MLJ394

**Appellant :** In Re: S. Ramasami Reddi

**Judgement :**

S. Subrahmania Aiyar, C.J.

1. The petitioner was ordered by the Head Assistant Magistrate of Madura to furnish security for keeping the peace under Section 107 of the Criminal Procedure Code. On appeal to the District Magistrate the order was confirmed. The application for revision of the said order came on before Mr. Justice Benson and was rejected, apparently on the ground that sufficient cause was not shown for the interference of the court by way of revision. The present petition purports to be an appeal against the order of the learned Judge.

2. The first question is whether an appeal lies in the matter and it depends upon whether the order as to security is or is not one in a criminal trial within the meaning of Section 15 of the Letters Patent. In construing these words, it is scarcely necessary to say that it is not admissible to refer to and rely on the provisions of the Code of Criminal Procedure to which we were referred in the course of the argument. I do not, however, wish it to be understood that if in interpreting the Letters Patent, reference to the Code of Criminal Procedure were admissible, that would lead to a variation of the conclusion at which I have arrived

in-dependently of the Code. Turning now to the Letters Patent there is nothing in Section 15 or in any other section thereof to show that the words 'Criminal' and 'Criminal trial' are used in any other than their general and ordinary sense as used in law. That the pro-ceedings of the Magistrate with reference to the security taken from the petitioner are proceedings in a criminal matter or cause admits of no doubt. The very object of the proceeding is the predication of certain crimes about to be committed with reference to the public place and it is the likelihood of a disturbance of public tranquillity that gives the court jurisdiction. It is obvious that proceedings of this character held before criminal courts can be nothing but criminal proceedings.

3. This was, if I understood Mr. Sivaswami Aiyar rightly, hard-ly denied. What he strongly contended for was that the investigation in question by the Magistrate was not a trial. Now that term according to the passage from the institutes quoted in Wharton's Law Lexicon means 'the examination of a cause civil or criminal before a Judge who has jurisdiction over it, according to the laws of the land.' The explanation of the same term in Stroud on the authority of the observations of Field J. in *Gath, v. Howarth* 28 S.J. 427 is that it is the 'conclusion by a competent tribunal of questions in issue in legal proceedings whether civil or criminal.' Again in Bouvior's Law Dictionary the term is stated on the authority of a decision in Massachusetts to mean ' the examination before a com-petent tribunal according to the laws of the land of the facts put in issue in a cause, for the purpose of determining such issue'. These citations express in different words precisely the same idea and testing the present case with reference to it, but one conclusion is possible. The person before whom the proceedings are con-ducted is a Judge in every sense of the term; they commence by information laid before him; the law prescribes notice thereof to the accused party; evidence has to be recorded in his presence and judgment given; if the security or bail required to be furnished is not forthcoming, imprisonment follows as a matter of course : finally an appeal is allowed in the matter. If a proceeding involving these requisites and incidents is not a trial, it is im-possible to see what it is. I have no hesitation, therefore, in holding that the order of the magistrate requiring security was an order in a criminal trial and consequently any order, which may be passed on appeal or in revision in connection with such a proceeding is also an order in a criminal trial. I

would accordingly reject this petition.

**Russell, J.**

4. I am of opinion there is no ' Judgment' in this case and therefore there is no appeal under Section 15 of the Letters Patent. Vide a decision of a Bench of this Court in Letters Patent Appeal No. 37 of 1903 following previous reported decisions on the same point.

5. I express no opinion on the question whether the proceedings in the lower Court were a trial or not. I think the appeal should be rejected.

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