

**Number Vs. Ambu and ors.**

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**SooperKanoon Citation :** [sooperkanoon.com/782560](http://sooperkanoon.com/782560)

**Court :** Chennai

**Decided On :** Aug-09-1882

**Reported in :** (1882)ILR5Mad381

**Judge :** Muttusami Ayyar and ;Tarrant, JJ.

**Appellant :** Number

**Respondent :** Ambu and ors.

**Judgement :**

**Muttusami Ayyar and Tarrant, JJ.**

1. The facts of this case are that on the 27th February last the first accused was charged under Section 24\* of The Cattle Trespass Act, 1871, with having rescued a cow from the possession of the complainant, who was conveying it to a village pound to be impounded, and he was further charged, along with the second and [382] third defendants, with using criminal force to the complainant on the same occasion (Section 352, Indian Penal Code).

2. The Sub-Magistrate convicted the first accused (first defendant) on both charges, and sentenced him to pay a fine of Rs. 5, commutable into five days' rigorous imprisonment, and also the complainant's costs, amounting to 12 annas. The second and third accused were acquitted under Section 211 of the Criminal Procedure Code, and the complainant was ordered to pay to the third defendant

Rs. 3 as compensation under Section 209 of the said Code.

3. The District Magistrate submits that, with reference to High Court ruling of 22nd November 1879, No. 2068, the case cannot be considered of such a frivolous and vexatious nature that Section 209, Criminal Procedure Code, applies.

4. The proceedings of this Court relied on by the referring officer have since been overruled by High Court Proceedings dated 14th December 1880, in which it was held that compensation may be awarded though the accused is acquitted under Section 211, Criminal Procedure Code.

5. A complaint may be well-founded as regards some of the defendants, and yet vexatious and frivolous as regards others.

6. We decline to interfere.

\* Penalty for forcibly opposing the seizure of cattle or rescuing the same.

[Section 24 : Whoever forcibly opposes the seizure of cattle liable to be seized under this Act, and whoever rescues the same after seizure, either from a pound, or from any person taking or about to take them to a pound, such person being near at hand and acting under the powers conferred by this Act, shall, on conviction before a magistrate be punished with imprisonment for a period not exceeding six months, or with fine not exceeding five hundred rupees, or with both.]

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