

Queen-empress Vs. Munisami and ors.

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Court : Chennai

Decided On : Aug-06-1891

Reported in : (1892)ILR15Mad39

Judge : Parker and ;Wilkinson, JJ.

Appellant : Queen-empress

Respondent : Munisami and ors.

Judgement :

1. Under Section 437, Criminal Procedure Code, the District Magistrate had power to make further inquiry himself or to direct the Sub-Magistrate to make further inquiry, but if he chose the latter course he had no legal authority to fetter the Sub-Magistrate in the exercise of his judicial discretion.

2. A commitment to the sessions (assuming that the case was one which ought to be tried by the Sessions Court) would not be justifiable unless the committing Magistrate considered a prima facie case had been made out which in his judgment ought to be tried at the sessions. The order of the District Magistrate that the case was to be committed if the Sub-Magistrate thought it was possible for two views to be held, (the District Magistrate distinctly stating he held another view), was therefore ultra vires, and practically took away from the Subordinate Magistrate the exercise of his judicial discretion. In making the commitment the Sub-Magistrate does not profess to have exercised any judicial discretion, but

commits the case as it is possible two views may be held, though he does not say he himself entertains any doubt as to the correctness of the decision he himself had arrived at.

3. The commitment must be quashed and the order of the District Magistrate of 10th June must be restricted to a simple direction to hold a further inquiry.

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