SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

In Re: Suppan Chetti and ors.

In Re: Suppan Chetti and ors.

SooperKanoon Citation : sooperkanoon.com/784709

Court : Chennai

Decided On : Apr-26-1927

Reported in : (1927)53MLJ526

Appellant : In Re: Suppan Chetti and ors.

Judgement :
ORDER

Curgenven, J.

1. The petitioners in this case were convicted by the Village Magistrate of Panrimalai, Dindigul Taluk, of an offence of assault and were sentenced to simple imprisonment in the village common from 1 p. m. to 3 p. m. on the date on which the conviction was passed. The first point raised is that a Village Magistrate proceeds under Act I of 1899 as amended by Act II of 1920, and Section 76 of that Act gives power to fine but not to imprison. Section 76, however, relates only to the procedure of a Panchayat Court and it is clear from Section 75 that a Village Court may be either a Panchayat Court or the Court of a Village Munsif, Section 7 enabling the Collector in villages where there are no Panchayat Courts to appoint Village Munsifs for this purpose. So far as I have been shown, the Act contains no provision for the conduct of criminal cases by Village Munsifs or Village Magistrates sitting without a Panchayat. For this, we have to turn to Regulation II of 1816, Section 10, which authorises a Village Magistrate to sentence a person for certain offences to confinement in the village choultry for a period not

exceeding 12 hours. It is clear therefore that the Court in this case had power to inflict imprisonment in the village choultry. The order, however, shows that the imprisonment was made in the village common, presumably because there was no village choultry available. As has been held in In re Ponnusami Pillai (1920) 12 LW 638 such a sentence of imprisonment is illegal and it must be either in the choultry or nowhere at all. Following that decision I must set aside the sentence. In the circumstances I do not consider it necessary to pass any sentence in substitution.

2. The only other point urged has to do with the procedure of the Village Magistrate in trying the case. There is a record of the statements of the witnesses, and so far as can be gathered from them they were not cross-examined by the accused. In the first place it is not clear that the record is complete, and secondly, a Village Magistrate acting under the Regulation is not required to do more than conduct a verbal examination and to record his decision. It is entirely contrary to the spirit of the Regulation that a Court acting in accordance with it should be required to adopt the ordinary rules relating to conduct of criminal cases, so long as it observes the fundamental dictates of justice, equity and good conscience. The learned Public Prosecutor has drawn my attention to G. O. No. 283, Judicial, dated 25th February 1909, which lays clown that the conduct of proceedings in Village Courts should be 'untrammelled by any special procedure, the weight of their authority being virtually dependent upon the fact that they sit coram populo. and that their verdicts are supported by the common knowledge of the villagers'. With this expression of opinion I find myself in complete agreement and it was certainly never intended that the procedure of a Village Magistrate should be open to such criticisms as would be appropriate in the case of higher courts. No doubt if the Village Magistrate had refused to allow the accused to put any questions there might be ground for interference, but I have not been satisfied that he topic such a course here.

3. With the modification indicated above, I dismiss this criminal revision petition.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com