

**In Re: Kanniyar**

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**Court :** Chennai

**Decided On :** Jan-31-1956

**Reported in :** 1957CriLJ139; (1956)2MLJ429

**Appellant :** In Re: Kanniyar

**Judgement :**

ORDER

**Rajagopalan, J.**

1. The petitioner applied for the transfer of C.C. No. 3790 01 1955, from the file of the Sub-Magistrate, Polur to that of the Sub-Magistrate, Ami. An application for a similar relief made to the learned Sessions Judge was dismissed.

2. The learned Sessions Judge was of the view that the principle laid down in Public Prosecutor v. Chockalinga Ambalam (1928) 56 M.L.J. 216 : I.L.R. Mad. 355, applied, and that as in C.C. No. 3790 of 1955 evidence had been closed and arguments had been heard, he had no jurisdiction to order transfer of the case. The learned Sessions Judge apparently overlooked the difference in language between Clause (8) of Section 526 and Clause (1-c) of Section 528 of the Criminal Procedure Code. The limitations imposed by Clause (8) of Section 526 may not all be read into Clause (1-c) of Section 528, which gives ample discretion to the Sessions Judge to order any particular case to be transferred from one criminal Court to another criminal Court in the same sessions division. The learned

Sessions Judge had the jurisdiction and it is for him to exercise the discretion. Though Crl. M.P. No. 108 of 1956 has been filed for transfer I would prefer to treat it as a case taken up in revision in the High Court. I, therefore, set aside the order, dated 20th January, 1956 of the learned Sessions Judge and direct disposal afresh by the learned Sessions Judge in accordance with law. Of course, the order of the learned Sessions Judge, dated 20th January, 1956 is set aside only with reference to C.C. No. 3790 of 1955.

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