

In Re: Muthu Gownden

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Court : Chennai

Decided On : Oct-21-1909

Reported in : 4Ind.Cas.36a

Judge : Munro and ;Abdur Rahim, JJ.

Appellant : In Re: Muthu Gownden

Judgement :

ORDER

1. The counter-petitioner was on the 17th December, 1907, ordered to enter into a bond with sureties to be of good behaviour for one year. The counter-petitioner failed to find sureties, but instead of being committed to prison as provided by Section 123 of the Criminal Procedure Code, he was apparently given time to find sureties. Finally on the 24th February 1909 as he failed to find sureties he was directed to suffer rigorous imprisonment for 11 months and 28 days, he having already, in June 1908 undergone two days' imprisonment. Section 123 of the Criminal Procedure Code lays down that if a person ordered to give security does not give such security on or before the date--in this case the 17th December, 1907, as it does not appear that the Magistrate fixed, any later date (vide Section 120 of the Criminal Procedure Code)--on which the period for which such security is to be given commences, he shall be committed to prison until such period expires or until within such period he gives security. As one year had elapsed from the 17th, December 1907, when the Head Assistant Magistrate passed the order now under consideration, the order was illegal. We set aside the order of the Head

Assistant Magistrate and direct the release of the counter-petitioner.

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