

The Queen Empress Vs. Saminada Chetty

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Court : Chennai

Decided On : Nov-15-1883

Reported in : (1883)ILR7Mad274

Judge : Charles A. Turner, Kt., C.J., ;Kernan, ;Kindersley and ;Muttusami Ayyar, JJ.

Appellant : The Queen Empress

Respondent : Saminada Chetty

Judgement :

Charles A. Turner, Kt., C.J.

1. The accused in this case was charged with disobeying a summons issued by a Police officer, under Section 160 of the Criminal Procedure Code, requiring the attendance of the accused to answer a charge of kidnapping. The Second-class Magistrate considered that Section 160 applies only to witnesses and not to accused persons, and referred to the marginal note which mentions witnesses only, and he accordingly discharged the accused on the ground that the summons which he was charged with disobeying was not one which a Police officer was legally competent to issue. The Joint Magistrate, however, was of opinion that the view taken by the Sub-Magistrate was erroneous, and forwarded the case to the District Magistrate for submission to the High Court.

2. The Court is of opinion that Section 160 does not authorize a Police officer to require the attendance of an accused person with a view to his answering the charge. The intention of the Legislature seems to have been only to provide a facility for obtaining evidence, and not for procuring the attendance of the accused, who may be arrested at any time, if necessary, without a warrant.

3. The Police may order any person whom they believe to be in a position to give information to attend and do so, and the person so ordered to attend may decline to make any criminatory statement, but he cannot be summoned to answer the complaint, as he was in this instance.

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