

**In Re: S. Malliah**

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**Court :** Chennai

**Decided On :** Nov-30-1951

**Reported in :** AIR1954Mad831

**Judge :** Ramaswami, J.

**Acts :** [Code of Criminal Procedure \(CrPC\) , 1898](#) - Sections 263

**Appeal No. :** Criminal Revn. No. 373 and Cri. Revn. Petn. No. 372 of 1951

**Appellant :** In Re: S. Malliah

**Advocate for Def. :** Public Prosecutor

**Advocate for Pet/Ap. :** J.V. Suryanarayana Rao, Adv. for ;M.S. Ramachandra Rao, Adv., ;M. Krishna Rao and ;C.S. Govindaswami, Adv.

**Judgement :**

ORDER

**Ramaswami, J.**

1. This is a criminal revision case filed against the conviction and sentence of the 1st Class Bench of Magistrates in B.C. No. 6242 of 1950 on the file of the Court of the 1st Class Bench of Magistrates, Guntur. The learned advocate for the petitioner has taken a proper point that, the judgment of the Bench Court does not conform to the provisions of Section 263, Criminal P. C. and that the trial thereby

stands vitiated. I am entirely in agreement with the contention of the learned advocate because this summary trial being not only summary is also horribly summary. The record does not show the nature of the accusation against the accused, the substance of the evidence of the prosecution witnesses from which we can infer why the magistrates believed the evidence and the defence of the accused, if any, which is not stated. On the other hand the judgment consists of a rigmarole to the following effect:

'The accused pleaded not guilty. They are summarily tried. They are reported as bad characters of notorious and nefarious type with previous convictions in the Stationary Sub-Magistrate's Court for gaming and they were under police custody because they were entangled in the murder case of one late Raithan Bee alias Baudaji ..... Both the accused are sentenced to undergo simple imprisonment for 15 days and to pay a fine of Rs. 45 in default to seven days Rule I. The accused shall be bound over under Section 106, Criminal P.C. to be of good behaviour for a period of six months under their own surety for a sum of Rs. 100 and they shall furnish another surety each for a Hue sum. Sd. Purniah, Vice-president. On the left hand side the following persons have signed:

Venkateswaralu, P.B. Paul, K. Subba Rao, Chebroulu Ramaswami (in Telugu) and D. Venkatakrishtnaya.'

2. I need not point out that the reasoning of this judgment is as bad as its English. There is utter absence of any reasons for convicting the accused. On the other hand a lot of hearsay and inadmissible evidence has been introduced which is totally irrelevant. for the purpose of this conclusion. In fact it is one of those cases contemplated by a long line of decisions of the various High Courts where it is laid that the Bench of Magistrates should be carefully watched to see that they pay their attention to their responsible judicial work, hear the parties in a fair and dispassionate manner and bring to bear their minds upon the question at issue and give sufficient reasons so that the revisional court may be able to follow whether they have weighed the evidence of the case, applied their minds to the ingredients of the evidence and come to the proper conclusion. Such an unsatisfactory judgment naturally vitiates the trial as has been laid down in -- 'Papu Chetti v.

Kesavalu Chetti', 1933 Mad WN 736 (A); -- 'Anantachar v. Emperor', 1937 Mad WN 328 (B) and -- In Re: GovindanThimma Chetty', AIR 1942 Mad 669 (C). It may be that on account of inexperience these magistrates have disposed of this case in such a horrible fashion and it is, therefore, impressed upon the learned District Magistrate that he should put them in the way of writing judgments properly as otherwise the liberty of the subject will be in great jeopardy in the area of Guntur. The learned District Magistrate may be usefully referred to the decision in -- 'AIR 1942 Mad 669 (C)', where what reasons must be stated in the judgment of this kind are fully indicated. The net result of this analysis of the evidence is that the conviction and sentence of the Bench Court must be set aside and are hereby set aside and the accused would be tried by a stipendiary magistrate of Guntur to be nominated by the District Magistrate of Guntur.

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