

**In Re: D.K. Reddy**

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**SooperKanoon Citation :** [sooperkanoon.com/792359](http://sooperkanoon.com/792359)

**Court :** Chennai

**Decided On :** Oct-15-1941

**Reported in :** AIR1942Mad181; (1941)2MLJ852

**Appellant :** In Re: D.K. Reddy

**Judgement :**

ORDER

**Horwill, J.**

1. The petitioner was alleged to have committed contempt of Court; and the Sub-Magistrate who was presiding over that Court took summary action under Section 480 of the Criminal Procedure Code and sentenced the petitioner to a fine of Rs. 15. He preferred an appeal under Section 486 of the Criminal Procedure Code. In the first instance, he preferred it to the Sub-Divisional Magistrate. On an objection taken by the Prosecuting Sub-Inspector, the Sub-Divisional Magistrate held that he had no jurisdiction to hear the appeal. The petitioner then approached the District Magistrate, who held that the Sub-Divisional Magistrate had power. When the matter came back to the Sub-Divisional Magistrate, the Prosecuting Sub-Inspector again raised the objection, but the Sub-Divisional Magistrate felt that his hands had been tied by the District Magistrate and so overruled the objection. The Prosecuting Sub-Inspector then went again to the District Magistrate, who passed an order which is not on the record, but which presumably was to the effect that the Sub-Divisional Magistrate had power to hear the appeal. The short point that

arises here is whether the Sub-Divisional Magistrate had jurisdiction or no.

2. An appeal lies against a sentence imposed under Section 480 only under Section 486 (1) ; for Section 407, which is the general section granting a right of appeal from Second Class Magistrates, applies only to persons convicted on a trial held by a Magistrate. As the petitioner was not convicted on a trial, he would have had no right of appeal at all were it not for Section 486 (1). The appeal against the sentence under Section 480 lies--in the words of Section 486 (1)--'to the Court to which decrees or orders made in such Court are ordinarily appealable.' Section 407 (1) makes an appeal ordinarily lie to the District Magistrate; for he has to hear all appeals from Second or Third Class Magistrates if they are not transferred under Section 407 (2)--vide *Eroma Variar v. Emperor* I.L.R.(1903) Mad. 656 (F.B.) which was followed by Jackson, J., in *Sivaswami Palankondan v. Perumal Palaiyondan* 1931 M.W.N. (Cri.) 1194.

3. The remaining question that has to be considered is whether the District Magistrate has a right to direct such an appeal to be heard by any Magistrate of the first class subordinate to him. It is argued by the learned Public Prosecutor that Section 486 (2) gives such a power; for that sub-section says:

The provisions of Chap. XXXI shall, so far as they are applicable, apply to appeals under this section...

Most of the provisions of Chap. XXXI could properly be applied to appeals under Section 486; but this particular Sub-section (2) of Section 407 says that

The District Magistrate may direct that any appeal under this section ...shall be heard by any Magistrate of the first class subordinate to him....

so that the District Magistrate has power to direct the transfer from his file to that of the First Class Magistrate only appeals under Section 407 (1) i.e., appeals from convictions on, a trial. That sub-section could not therefore be properly applied to an appeal under Section 486 (1). .

4. The Sub-Divisional Magistrate having acted without jurisdiction, this petition is allowed and the District Magistrate ordered to take the appeal on his file and to

dispose of it according to law.

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