

**In Re: K. Venkappa and Four ors.**

**In Re: K. Venkappa and Four ors.**

**SooperKanoon Citation :** [sooperkanoon.com/793397](http://sooperkanoon.com/793397)

**Court :** Chennai

**Decided On :** Aug-18-1913

**Reported in :** (1915)ILR38Mad305

**Judge :** Ayling, J.

**Appellant :** In Re: K. Venkappa and Four ors.

**Judgement :**

ORDER

Ayling, J

1. The petitioners have been convicted of an offence under Section 283, Indian Penal Code, by leaving a 'prabha' lying in a public road for 24 hours so as to cause obstruction.

2. The first point argued is that the abandonment of the 'prabha' was due to the action of the Sub-Magistrate (prosecution witness No. 2), who stopped the procession of the accused and others accompanying it: and that therefore the accused committed no offence. It is certain that the Sub-Magistrate apprehending a breach of the peace stopped the progress of the procession. According to his own account (which there seems no reason to distrust) he simply told the accused to go and bring their elders. According to the defence version, he threatened to fire on the processionists if they persisted in going on. In neither case can it be said that the Magistrate's action justified or excused those carrying the 'prabha' in

leaving it in the 'middle of the street in such a way as to cause obstruction even for a short time, to say nothing of 24 hours. This plea cannot be accepted.

3. It is next represented that the accused were prejudiced by the hurried nature of the trial. I find no ground for holding that this was the case.

4. Lastly it is argued on the authority of *The Queen v. Khader Moidin* I.L.R., (1882) Mad., 235, that in the absence of evidence of obstruction to any particular individual a conviction under Section 283, Indian Penal Code, cannot stand. The evidence on record shows that the road at the place in question is three yards wide, while the 'prabha' was two yards wide. Consequently as long as the 'prabha' remained on the road no vehicle could pass, and even a foot-passenger could not pass without inconvenience. This amounts to saying that the 'prabha' could not fail to cause obstruction to any person who had occasion to pass along the road which is admittedly a public one: and though obstruction to any individual is not expressly proved, it is a matter of necessary inference. I very much doubt whether the ruling in the case above quoted was ever intended to apply to a case of this kind: and, if it were, with due deference to the learned Judges responsible for it, it seems to me to go too far (of. *Mayne's Criminal Law of India*, 3rd Edition, paragraph 403). The only other Madras case quoted to me is *Queen-Empress v. Virappa Chetti* I.L.R., (1897) Mad., 433. That was an appeal against acquittal. The court, while expressing some doubt as to the applicability of Section 283, Indian Penal Code, pointed out that the case undoubtedly fell under Section 290, Indian Penal Code, and ordered a retrial.

5. In the present case also, there is clear evidence to support a conviction under section #290, Indian Penal Code, which renders the offender liable to exactly the same punishment as Section 283.

6. Under these circumstances there seems to be no ground for interference, and the petition is dismissed.