

In Re: Appavoo Pillai

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Court : Chennai

Decided On : Mar-26-1947

Reported in : AIR1947Mad369; (1947)1MLJ367

Appellant : In Re: Appavoo Pillai

Judgement :

ORDER

Yahya Ali, J.

1. The first contention put forward by Mr. Chandra Reddi in this case for the defence is that the prosecution is barred under Section 53 of the District Police Act as it was beyond three months after the act complained of. The act complained of was that the police officer conducted the investigation in this particular case in a perfunctory manner. This complaint was made in a communication that was addressed by the petitioner to the District Superintendent of Police, Trichinopoly. On the wrapper it was superscribed to the Inspector General of Police, Madras, and was received at Madras and transmitted to the District Superintendent of Police who in his turn sent it to the Police Inspector who after enquiry found that the allegations against the police officer were baseless. Upon this report action was taken against the petitioner under Section 47 of the District Police Act which provides:

If any person shall assault or resist any police officer in the execution of his duty, or shall aid or incite any other person so to do, or shall maliciously and without probable cause prefer any false or frivolous charge against any police officer, such person shall, on conviction of such offence before any Magistrate, be liable to a fine not exceeding fifty rupees....

The complaint was first filed before the Sub-Magistrate, Musiri. That Sub-Magistrate transferred the case to the file of the Sub-Magistrate, Lalgudi. The matter came up to this Court in criminal revision case No. 984 of 1945 on the question as to whether that Court had jurisdiction. The petition was dismissed, holding that the Court in Trichinopoly (Lalgudi) had jurisdiction and that prosecution need not be instituted in Madras as was contended. The District Magistrate, Trichinopoly, appears to have subsequently withdrawn the case to his file and again re-transferred it to the file of the Sub-Magistrate, Lalgudi, for disposal.

2. The point raised under Section 53 of the District Police Act is that the order of the District Magistrate withdrawing the case to his file and transferring it to the Sub-Magistrate, Lalgudi, was beyond three months after the act complained of and that therefore the prosecution is barred by time. I find no force whatever in this contention. Section 53 has no application to cases of this kind. It applies to those actions and prosecutions which are taken against persons for anything done or intended to be done either under the provisions of the District Police Act or under the provisions of any other law for the time being in force conferring powers on the police. It cannot be said that the petitioner is a person who did anything or intended to do anything under the provisions of the District Police Act or under the provisions of any other law conferring powers on the police. The remaining provisions of Section 53 also distinctly indicate that the actions and prosecutions contemplated under Section 53 are those instituted against police officers for acts done in the discharge of their police duties.

3. The next argument is that Lalgudi Court had no jurisdiction whatever and that the District Magistrate by withdrawing it to his file could not confer such jurisdiction. The learned Public Prosecutor points out that the letter addressed to

the District Superintendent of Police was posted by the petitioner at Tiruvasi which is within the limits of Lalgudi Sub-Magistrate's jurisdiction and for defamation the place of posting is one of the places where the complaint can be filed, because it is the commencement of the process of publication. I find no substance whatever in the petition.

4. The petition is accordingly dismissed.

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