

**In Re: Arunachalam Chetty**

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**SooperKanoon Citation :** [sooperkanoon.com/796771](http://sooperkanoon.com/796771)

**Court :** Chennai

**Decided On :** Mar-23-1923

**Reported in :** AIR1924Mad323; (1923)45MLJ543a

**Appellant :** In Re: Arunachalam Chetty

**Judgement :**

ORDER

**Spencer, J.**

1. The complaint in this case was of the offences of kidnapping a minor girl and theft of her jewels. It is contended that there was no complaint of an offence of enticing away a married woman for the purpose of having illicit intercourse with her (Section 498 I.P.C.) so as to give the Magistrate jurisdiction to take cognizance of that offence, as provided by Section 199 of the Code of Criminal Procedure.

I am of opinion that the objection is sound and must prevail. I agree with the observations of Ayling, J. in re Pedda Anninagadu (1921) M W N 514 to the effect that the sworn statement and the written complaint of a complainant may be read together for the purpose of ascertaining what the nature of the complaint in any particular case was. As 'complaints' include oral allegations under the definition in Section 4(1)(b) it would otherwise be necessary to say that there was no complaint in cases where the complainant had no paper or was unable to write or get any one to write for him when he came to the Magistrate, and if the Magistrate took

down his complaint in writing (as he would be bound to do) it would be impossible to say where (he complaint ended and the sworn statement began.

2. I do not feel bound by the contrary opinion of Wallis, C.J. and Coutts Trotter, J. in 1921 M.W.N. 514, as they differed in the result of that case.

3. But in the present case there was no allegation even in the sworn, statement of complainant that the accused's purpose was to have illicit intercourse with her daughter.

4. There is not even the statement as to puberty that there was in 1921 M.W.N. 514. Thus there was no complaint of an offence under Section 498 I.P.C. so as to give the Magistrate jurisdiction to try and convict the accused of such an offence.

5. The conviction is quashed and the 1st accused is directed to be released from his bond and to be entitled to receive a refund of the line it paid by him.

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