

In Re: Ramasamier and ors.

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Court : Chennai

Decided On : Oct-07-1915

Reported in : 30Ind.Cas.1001

Judge : William Ayling, J.

Appellant : In Re: Ramasamier and ors.

Judgement :

ORDER

William Ayling, J.

1. The order of the second Class Magistrate of Pattukottah, dated 12th April 1915, purporting to dispose of Calendar Case No. 1308 of 1918 runs as follows: 'In this case, while the trial was proceeding the complainant is dead, and so it abates and is closed without any judgment.'

2. There is no abatement of a criminal case on the death of complainant and the order is illegal and of no effect whatever. Calendar Case No. 1308 of 1913 must be regarded as still pending.

3. The subsequent complaint presented by Singaravela Thevan, which has been taken on file and numbered as Calendar Case No. 341 of 1915, admittedly related to exactly the same facts, as those which formed the subject-matter of the Calendar Case No. 1308 of 1913. It should, therefore, have been dismissed under

Section 203 of the Code of Criminal Procedure. Instead of this the Magistrate directed that it should be filed and process issued under Section 204 of the Code of Criminal Procedure.

4. Under Section 423(6) of the Code of Criminal Procedure, read with Section 439 the Code of Criminal Procedure, I reverse that order and direct the dismissal of Singaravelu Thevan's complaint. I further direct that Calendar Case No. 1308 of 1913 be restored to file and that the Magistrate do proceed to dispose of it according to law. The case against accused Nos. 1, 2, 8 and 9 has, of course, already been disposed of by their discharge.

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