

In Re: Raju

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Court : Chennai

Decided On : Sep-24-1974

Reported in : 1975CriLJ1199

Judge : Paul, J.

Appellant : In Re: Raju

Judgement :

ORDER

Paul, J.

1. The Revision Petitioner challenges his conviction by the Special Honorary Presidency Magistrate, Traffic Mobile Court, Madras, for an offence under Rule 323 of the Motor Vehicles Rules read with Section 112 of the Motor Vehicles Act and the sentence of fine of Rs. 30/- in default to undergo simple imprisonment for one week, meted put to him for the said offence. The petitioner was convicted on his own admission and plea before the Special Honorary Presidency Magistrate, who presided over the Traffic Mobile Court, which was constituted under G. O. Ms. No. 901 Home dated 13-3-1966. That Government Order shows that the Government sanctioned the constitution of the Mobile Court for the trial exclusively of traffic offences in the Madras City.

2. The learned Counsel for the revision petitioner contends that the Chief Presidency Magistrate, Madras, has framed rules for the working of the Traffic

Mobile Court, Madras, with the approval of the Government of Tamil Nadu, in exercise of the powers conferred by Section 21 (1) of the Code of Criminal Procedure, that Rule 8 of the said rules stipulates the various offences which shall be tried by the Traffic Mobile Court, that the offence of which the revision petitioner has been convicted is not one of those offences enumerated in that rule and that, therefore, the Special Honorary Presidency Magistrate, Traffic Mobile Court, had no jurisdiction to enquire into the case and convict the revision petitioner. In short the learned Counsel contends that, by reason of Rule 8 referred to above, the Special Honorary Presidency Magistrate had no power to try this offence or convict the revision petitioner.

I am unable to accept this contention of the learned Counsel for the revision petitioner. Under Section 18 of the Code of Criminal Procedure, the State Government is empowered to appoint, from time to time, a sufficient number of persons (called Presidency Magistrates) to be Magistrates for each of the Presidency Towns and to appoint one of such persons to be Chief Presidency Magistrate for each such town. Sub-section (2) further states that 'the powers of a Presidency Magistrate under this Code shall be exercised- by the Chief Presidency Magistrate, or by a salaried Presidency Magistrate or by any other Presidency Magistrate empowered by the State Government to sit singly or by any Bench of Presidency Magistrates'. The Magistrate in question is a Special Honorary Presidency Magistrate so appointed under Section 18 of the Code of Criminal Procedure by the State Government and empowered to sit singly and as such he is possessed of all the powers of a Presidency Magistrate under the statute itself. These powers cannot be controlled or circumscribed by the State Government by means of any Government Order, much less can the Chief Presidency Magistrate curtail or limit or circumscribe the statutory powers conferred on the Presidency Magistrate by means of any rule framed under Section 21 of the Code of Criminal Procedure.

It may also be noted that Section 21 of the Code of Criminal Procedure empowers the Chief Presidency Magistrate to frame rules from time to time, with the previous sanction of the State Government, to regulate ;-

- (a) the conduct and distribution of business and the practice in the Courts of the Magistrates of the town;
- (b) the times and places at which Benches of Magistrate shall sit;
- (c) the constitution of such Benches;
- (d) the mode of settling differences of opinion which may arise between Magistrates in session, and
- (e) any other matter which could be dealt with by a District Magistrate under the general powers of control over the Magistrates subordinate to him.

It is abundantly clear from the language of this section that the rules framed by the Chief Presidency Magistrate by virtue of the powers conferred on him under that section are merely for the purpose of regulating the conduct and distribution of business and the practice in the Courts of the Magistrates of the town. Such rules cannot limit or circumscribe the powers that the Magistrates have by virtue of their appointment as Presidency Magistrates. It is for the purpose of regulating the conduct of business and the distribution of work that the Chief Presidency Magistrate is empowered to frame rules under Section 21 and he could frame rules only for regulating the conduct and distribution of business among the Presidency Magistrates. In other words, he cannot limit the powers which the Presidency Magistrate gets on his appointment as a Presidency Magistrate which powers are conferred upon him by the statute itself. Therefore, it cannot be argued at all that, inasmuch as under the rules framed by the Chief Presidency Magistrate under Section 21, the offence of which the revision petitioner has been convicted is not one of the offences specified in Rule 8, the Special Honorary Presidency Magistrate, who has all the powers of a Presidency Magistrate vested in him under the Code on his appointment as such and who is empowered to sit singly has no power to try such an offence or to convict a person for that offence. The Government Order under which this Traffic Mobile Court was constituted itself says that the Mobile Court was constituted for the purpose of trial of traffic offences. The offence of which the petitioner has been convicted is traffic offence. The Chief Presidency Magistrate by framing rules under Section 21, has no doubt

allocated to the Traffic Mobile Court presided over by the Special Honorary Presidency Magistrate the work of trying only some of the traffic offences which are quite petty in nature. But that does not mean that by reason of such an allocation of a specific work to him, the powers of the Special Honorary Presidency Magistrate are limited to the trying of only those cases, when the statute itself has conferred on him all the powers of a Presidency Magistrate. Hence it cannot be contended on behalf of the petitioner that the Magistrate had no jurisdiction or power to try the revision petitioner for that offence or convict him.

3. The conviction is therefore correct. The sentence is not harsh, and calls for no interference. The Criminal Revision case is therefore dismissed.

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