

In Re: Manikkam Pillai

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Court : Chennai

Decided On : Oct-08-1920

Reported in : 60Ind.Cas.55; (1920)39MLJ714

Judge : Abdur Rahim, J.

Appellant : In Re: Manikkam Pillai

Judgement :

Abdur Rahim, J.

1. In this case the Additional District Magistrate should have given notice to the petitioner, who was complainant in the ease, before making the order of transfer. The complainant had obtained an order for transfer of a certain criminal charge. filed in the Stationary Sub Magistrate's Court of Papanasam to the Sub-Magistrate's Court of Kumbakonam on the ground that he had reasons for apprehending that hid case would not be properly tried, Thereupon the accused applied to the Additional District Magistrate of Tanjore for re transfer of the case from the file of the Sub-Magistrate of Kumbakonam to that of the Stationary Sub-Magistrate of Papanasam and the Additional District Magistrate made an order of transfer without giving any opportunity to the complainant in the case to be heart? in support of the order of transfer which he had obtained from the Sub-Divisional Magistrate transferring the case from the file of the Stationary Sub-Magistrate of Kumbakonam. It may be, as contended by the Fublia Prosecutor, that the law

entitles the complainant to no notice, when a Magistrate proposes to act under Section 528, Criminal Procedure Code. At the same time, It is obvious that when the complainant has obtained an order of transfer from a competent Magistrate who made that order after hearing both the parties, a Magistrate of superior jurisdiction should not cancel the order and re-transfer the case to the original Magistrate without hearing the complainant in support of the order of transfer which he had obtained. I set aside the order of the Additional District Magistrate and direct the case to be restored to the file of the Sub-Magistrate of Kumbakonam.

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