

In Re: Sikka Goundan and ors.

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SooperKanoon Citation : sooperkanoon.com/806926

Court : Chennai

Decided On : Oct-13-1922

Reported in : AIR1923Mad326; 72Ind.Cas.351

Judge : Oldfield and ;Devadoss, JJ.

Appellant : In Re: Sikka Goundan and ors.

Judgement :

ORDER

1. There is before us, first, an application for the transfer of C.C. No. 2 of 1921, from the file of the Village Magistrate of Keeripatti to any other Village Magistrate and, next, an application for quashing the Village Magistrate's proceedings in that case. The relief asked for in the latter application is described somewhat inaccurately. For it does not appear that there are any proceedings by the Village Magistrate, which can be quashed or set aside. What has happened is that the Village Magistrate received an oral complaint against the petitioners and issued process to them thereon. They did not comply with that process on the ground that the occurrence in question did not take place within the Magistrate's jurisdiction and he had no power to issue process in respect of it. On that default the Village Magistrate filed a complaint against them, which was heard, of an offence punishable under Section 174, Indian Penal Code. In dismissing that complaint, the Sub-Magistrate accepted the petitioners contention that the Village Magistrate had no jurisdiction. Afterwards, however, the Village Magistrate took a sworn statement from, the complainant, in which it was alleged that the occurrence was

within his jurisdiction, and now proposes to proceed with the trial. It is not disputed that the offence referred to in the sworn statement just mentioned was identical with the offence which was the subject of the oral complaint.

2. The fact that the complainant in the sworn statement alleged that the occurrence took place within the jurisdiction is, of course, of no avail whatever. We have, how-ever, a judicial decision, no doubt in collateral proceedings, still, one of which, in our opinion, we can in proceedings such as these legitimately take account, that the occurrence was outside the Village Magistrate's jurisdiction; and we accept, that decision as the basis for our conclusion. So accepting it, we clearly cannot transfer this case, which is at present in a Court without jurisdiction and, therefore, has never been legally instituted [See *Ledgard v. Bull*: 4 Sar. P.C.J. 741 : 5 Ind. Dec. 561] to any other Court.

3. To turn then to the petition to quash the proceedings, for the reasons given we cannot comply with it literally. In the circumstance, however, we think we are justified with reference to our inherent powers of superintendence in directing the Village Magistrate of Keeripatti not to proceed further with the complaint of Muthuswami Goundan at present pending before him. It will be for Muthuswami Goundan, if h is so minded, to file anew complaint in any competent Court.