

Public Prosecutor Vs. Rangaswamy Chettiar

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Court : Chennai

Decided On : Apr-04-1963

Reported in : 1963CriLJ464

Judge : Sadasivam, J.

Appellant : Public Prosecutor

Respondent : Rangaswamy Chettiar

Judgement :

ORDER

Sadasivam, J.

1. Public Prosecutor has preferred this revision against the order of the Sub Magistrate City III, Coimbatore, overruling his preliminary objection that the Sub Magistrate as committing Magistrate had no jurisdiction to hold an enquiry or pass an order as to disposal of property under S. 517 Crl. P. C. Under Section 517 (1) Crl. P. C. it is for the Sessions Court to pass orders for the disposal (by destruction confiscation, or delivery) of any property or document produced before it or in its custody in all cases Where the trial of the sessions case is concluded. The Sessions Court has no doubt powers to pass orders under Sec. 517 (2) and Section 518 Crl. P. C. to direct a District or Sub Divisional Magistrate to deliver the property. But they are not intended to be used in ordinary cases. In fact there was no such order in this case. Under Section 207-A (14) Crl. P. C, where the accused

is committed for trial the committing magistrate shall send the record of the enquiry and any weapon or other thing which is to be produced in evidence to the court of Sessions, Rule 99 of the Criminal Rules of Practice provides that 'when any person is committed for trial before the Court of Sessions a descriptive list of and weapons or other articles of property connected with the case shall form part of the record.' In *Panchaeti Akhara Maha Nirbani v. Secretary of State*, ILR 44 All 573 : AIR 1922 AH 276, it was observed that the criminal case having been tried by the Court of the Assistant Sessions Judge of Fyzabad that was undoubtedly the proper court to pass orders regarding the disposal of property in respect of which the offence or offences set forth in the charge tried by it had been committed and that the order as to disposal of property made by the Magistrate who committed the criminal case for trial was improperly passed. In *Badrul Hasan v. Mt. Chamela*, : AIR1918 Pat304 , it was held that it was within the competence of the Sessions Court under Section 517 Crl. P. C, to deal with the properties produced before it. On the facts of that particular case it was held that as the currency notes were not produced or marked in the sessions trial but were marked as exhibits in the trying Magistrate's court the Magistrate's court had full jurisdiction to make the order which it did under Sec. 517 Crl. P C.

2. In the present case the sugar bags obtained under forged permits were sold prior to the trial of the case and hence the seizure lists were marked as exhibits in the Sessions Court. There can be no doubt that the offence was committed with regard to the sugar bags which were sold prior to the trial of the sessions case. The order as to disposal of the sale proceeds should be made only by the Sessions Court and not by the committing magistrate. The preliminary objection taken by the Public Prosecutor in the Court below is correct and the order of the Sub Magistrate is wrong. The order of the Sub Magistrate is set aside and the petition of the respondent is dismissed. It is open to the respondent to move the Court of Sessions for orders as to disposal of property.