

In Re: Padmanabha Hebbara

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Court : Chennai

Decided On : Feb-17-1919

Reported in : 50Ind.Cas.485; (1919)36MLJ352

Judge : John Wallis, C.J., ;William Ayling and ;Kumaraswmi Sastri, JJ.

Appellant : In Re: Padmanabha Hebbara

Judgement :

John Wallis, C.J.

1. In this case time facts first came to the notice of the Court after the judicial proceedings before it had terminated, but that I think is not enough to take the case out of the authority of the Full Bench decision of five Judges in Aiyakannu Pillai v. Emperor 1 Ind. Cas. 597 : 4 M.L.T. 404 : 9 Cri. L.J. 41 which confirmed the earlier ruling in Rahimadulla Sahib v. Emperor 31 M.P 140 : 7 Cr.L.J. 54 : 17 M.L.J. 584 : 3 M.L.T. 79 I would answer the question in the negative.

Ayling, J.

2. If the matter were res integra, I should concur in the view expressed by Miller, J., in Rahimadulla Sahib v. Emperor 31 M.P 140 : 7 Cri. L.J. 54 : 17 M.L.J. 584 : 3 M.L.T. 79 and Aiyakannu Pillai v. Emperor 1 Ind. Cas. 597 : 32 M.P 49 : 19 M.L.J. 42 : 4 M.L.T. 404 : 9 Cri. L.J. 41 But, sitting as a member of the present Bench, I feel bound by the opinion of the Full Bench of five Judges in the last named case. I

do not think the order in the present case can be treated as a valid one within the spirit of these rulings.

3. I, therefore, agree to the answer proposed.

Kumabaswami Sastri, J.

4. I agree with my Lord and would add that in cases like the present it is open to the Court to act under Section 195 of the Criminal Procedure Code and direct an officer to file a complaint.

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