

In Re: Krishna Reddy and ors.

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Court : Chennai

Decided On : Jul-23-1909

Reported in : 5Ind.Cas.881

Judge : Ralph Benson, Offg. C.J. and ;Abdur Rahim, J.

Appellant : In Re: Krishna Reddy and ors.

Judgement :

ORDER

1. in the case of Rama Aiyar v. Venkatachala Padayachi 30 M.k 311 : 2 M.L.T. 84 : 17 M.L.J. 123 : 5 Cri. L.J. 288, it was held that a District Judge had no jurisdiction to order further enquiry by a District Munsif in regard to a matter dealt with by him under Section 195, Criminal Procedure Code. It was held that such jurisdiction was not inherent because not incidental to the proper exercise of the powers given to the District Court by the section, nor were they given by any section of the Civil or Criminal Procedure Code.

2. Though that was in a Civil Court and the present case arose in a Criminal Court, we think the same reasoning must be held applicable. The power to take, or call for, further evidence given by Section 428, Criminal Procedure Code, is expressly limited to appeals under that Chapter i.e., under Chapter XXXI of the Code. Section 195 is not part of that Chapter, nor does the section itself give any power to call for further evidence.

3. We must, therefore, hold that the District Magistrate had no power to make the order calling for further evidence.
4. We set aside the order and direct the District Magistrate to restore the case to his file and deal with it according to law.

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