

C. Rajamani Vs. M. Chitraputhran

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Court : Chennai

Decided On : Nov-06-1961

Reported in : (1962)1MLJ323

Appellant : C. Rajamani

Respondent : M. Chitraputhran

Judgement :

ORDER

Sadasivam, J.

1. Petitioner Rajamani has been convicted under Section 116(2) of the Madras Village Panchayats Act and sentenced to a fine of Rs. 25 and in default to simple imprisonment for one month in C.C. No. 2405 of 1959 on the file of the Sub-Magistrate, Uthamapalayam and the conviction and sentence have been confirmed by the District Magistrate on appeal. The learned Advocate for the petitioner contended that the evidence in this case would not justify his conviction under Section 116(3) of the Madras Village Panchayats Act. But on going through the records I find sufficient materials to sustain the conviction of the petitioner under Section 116(3) of the Madras Village Panchayats Act. Petitioner was Temporary President, Panchayat Board, Kohilapuram. The charge against him is that he failed to hand over charge to his successor. It is not even the petitioner's case that he handed over the properties and records of the Panchayat Board to

his successor. Therefore the lower Courts were justified in finding on the evidence that the petitioner failed to hand over the records of the Panchayat Board to his successor. The fact that the petitioner was ill and was away at Madurai and that the clerk of the Panchayat Board and others had access to the records would not justify the inference that the petitioner had really handed over the records to his successor.

2. The learned Advocate for the petitioner relied on the decision in *Satyanarayana v. Narayanaswami* (1960) M.L.J. 235 : (1960) 1 An.W.R. 298 : A.I.R. 1961 Andh. Pra. 18, in support of his contention that the sanction given by the Inspector of Local Boards is not valid. I carefully considered the reasons put forward in the judgment for holding that the Government cannot delegate its powers under Section 127 of the Village Panchayats Act to the Inspector of Local Boards, and I am unable to agree with the decision. The provisions contained in Section 196, Criminal Procedure Code and Section 6 of the Prevention of Corruption Act have been referred to in the decision. Under Section 196, Criminal Procedure Code, a complaint may be made for the offence specified therein by the State Government or some officer empowered by the State Government in that behalf. Section 6 of the Prevention of Corruption Act (II of 1947) requires the sanction of the Central Government or the Provincial Government or some higher authority or any other authority competent to remove the public servant from his office. Under Section 127(1) of the Madras Village Panchayats Act the Government may by notification authorise any authority, officer or person to exercise in any local area, in regard to any panchayat or any class of panchayats or all panchayats in that area any of the powers vested in them by this Act except the power to make rules. The objection taken in that decision appears to be with reference to the delegation of powers to 'person'. It is pointed out in the decision as to how any 'person' who is not an officer of the Government could ever be competent to arrive at a responsible decision which is involved in the nature of granting or refusing to grant sanction to prosecute a public officer. The Legislature has given the power to the Government to delegate to any authority or officer or person the power to grant or refuse sanction to prosecute a public officer. Evidently the word 'person' has been used in order to include even non-officials who might hold position of authority in Local Bodies, and delegation of power may be made to them. In the present case the

delegation is not to a 'person' but to an 'officer' namely the Inspector of Local Boards. In the decision cited it is stated that the only powers contemplated under Section 127 of the Act are powers under Sections 28, 42, 48 and 49 of the said Act. But a reading of Section 127 clearly shows that the delegation of powers is not confined to Sections 28, 42, 48 and 49 alone but to any of the powers vested in the Government by the Act except the powers to make rules. In view of the clear and unambiguous language of Section 127 of the Village Panchayats Act, it is not possible to give the interpretation put on it in the decision in the above case. In my opinion the delegation of power is valid.

3. The conviction of the petitioner under Section 116(3) of the Madras Village Panchayats Act is correct and it is confirmed. But as regards the sentence the case calls for a revision of the fine of Rs. 25 imposed. The petitioner, no doubt, failed to hand over the records to his successor, but it is clear from what I have stated that he made the records available whenever required by the clerk of the Office and by the Inspecting Officer and he was ill in hospital at Madurai. I consider this a fit case to deal with the petitioner under the Probation of Offenders Act and admonish him under Section 3 of the Act. The accused is represented by his Advocate in this case. The fine, if collected, is ordered to be refunded.