

In Re: Sanga Rosi Reddy

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Court : Chennai

Decided On : Mar-22-1954

Reported in : AIR1954Mad1042

Judge : Chandra Reddy, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1898](#) - Sections 438, 439 and 439(3);
Madras Prohibition Act - Sections 4(1)

Appeal No. : Criminal Revn. Case No. 589 of 1953 and Case Refd. No. 42 of 1953

Appellant : In Re: Sanga Rosi Reddy

Advocate for Pet/Ap. : Public Prosecutor (Andhra)

Judgement :

ORDER

Chandra Reddy, J.

1. The District Magistrate has made this reference recommending the reduction of the fine to Rs. 200 or to restore the sentence passed by the trial Court.
2. The facts leading up to the reference are the following. The accused was convicted under Section 4 (1) (b) of the Madras Prohibition Act and sentenced to four months' rigorous imprisonment. He preferred an appeal against the conviction

and sentence to the Sub-Divisional Magistrate. On the request of the accused, the lower appellate Court seems to have modified the sentence into one of fine of Rs. 400, which was paid by the accused immediately without any demur.

The District Magistrate has made this reference for the purpose mentioned above on the ground that the appellate Court has no Jurisdiction to levy a fine higher than Rs. 200, which is the maximum fine that could be imposed by the trial Court. It is true that the powers of an appellate Court are in this wise not higher than those of the trial Court. But this Court has jurisdiction under Section 439 (3), Criminal Procedure Code as a Court of revision to inflict a punishment which might have been Inflicted by the First Class Magistrate. Although the lower appellate Court was not competent to substitute a fine of Rs. 400 for an imprisonment of four months, this Court has jurisdiction to levy that fine of Rs. 400. In exercise of my powers under Section 439, I Impose a fine of Rs. 400 in substitution of the four months' rigorous imprisonment. The reference is ordered accordingly.

3. The District Magistrate should not make references in every case in which he thinks that there is some irregularity or illegality in the exercise of the jurisdiction by the appellate Court. In this case, the accused was not dissatisfied with the order. In fact, as I have already pointed out, it was at this request that this fine was imposed.

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