

In Re: Perumal Naick

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Court : Chennai

Decided On : Feb-17-1925

Reported in : 90Ind.Cas.398

Judge : Devadoss and ;Wallace, JJ.

Appellant : In Re: Perumal Naick

Judgement :

ORDER

1. This is an application to quash the proceedings, now pending before the Sub-Magistrate of Satur, on the ground that no complaint was filed in the case to enable the Magistrate to take proceedings against the petitioner. The petitioner made a statement to the Village Munsif of Mela Raja Kularaman, that a dacoity was committed in his house and mentioned certain persons as having taken part in the dacoity. The Village Munsif forwarded the complaint to the Police, who held an investigation and reported the case as false. The Sub-Magistrate of Srivilliputtur to whom the papers were sent, accepted the referred charge-sheet and struck the case off his file. The Police put in a charge-sheet before the Sub-Divisional Magistrate of Sivakasi, against the petitioner for an offence under Section 211, Indian Penal Code. The Sub-Divisional Magistrate transferred the case to the Second Class Magistrate of Satur. The contention of the petitioner is that there is no complaint from the Second Class Magistrate of Srivilliputtur, who acted on the referred charge-sheet of an offence under Section 211 and, therefore, the proceedings are illegal.

2. Without expressing an opinion on that contention, we are satisfied that this is not a case in which the Police could start proceedings of their own accord. The offence under Section 211 is a non-cognizable one, and the Police are not empowered to investigate into a non-cognizable offence, and charge the petitioner. It is open either to any of the accused in the alleged dacoity case or to the Village Munsif, or any Police Officer, to prefer a complaint under Section 190. Cr. P.C. in which case the Magistrate before whom the complaint is made may take the case on his file after taking a sworn statement from the complainant. Such a course was not adopted in this case. We think the proceedings before, the lower Court are illegal and they are hereby quashed.

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