

Madras High Court

Deenadayala Naidu And Ors. vs Rathna Padayachi on 2 December, 1926

Equivalent citations: (1927) 52 MLJ 251

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ORDER Wallace, J.

1. The main point argued in this revision case is whether the inclusion in Section 4(o) of the Criminal Procedure Code, in the definition of 'Offence' of an "act in respect of which a complaint may be made under Section 20 of the Cattle Trespass Act" renders it unnecessary for a Magistrate who is generally empowered under the Criminal Procedure Code to receive complaints of offences, to be specially authorised by the District Magistrate to receive complaints under that section of the Cattle Trespass Act. Section 29 of the Criminal Procedure Code is relied on. So far as Sub-section 1 is concerned, it is argued that the offence can only be tried by the Court mentioned in Section 20 of the Cattle Trespass Act, that is, by the Magistrate authorised to receive and try charges without a reference by the District Magistrate. So far as Sub-section 2 is concerned, it is argued that, as the offence is not punishable with imprisonment or fine as such, it has no place in the 8th column of the 2nd schedule and therefore that that schedule does not apply. I am inclined to agree with the second contention although there are cases which have held that the compensation which may be awarded under Section 22 is of the nature of a fine. But I think the first contention does not carry the petitioner so far as he wishes to go. Granted that the only Court which can try the case is a Magistrate authorised in the language of Section 20 of the Cattle Trespass Act, that language appears to me to mean a Magistrate authorised to receive and try complaints generally and not merely complaints under that section. I am not clear why the vague word 'charges' is used, but, had the intention of the legislature been to confine the authorisation to charges under that section, I think it would have said so. It is true that if 'charges' means generally complaints of offences, it was not necessary to amend the definition of 'offence' under the Criminal Procedure Code of 1898, because a Magistrate authorised to try the offences generally would under Section 20 have authority to try a complaint under that section. But the amendment was probably due to certain rulings which lay down that an act in respect of which a complaint could be laid under Section 20 was not an offence. See *Pitchi v. Ankappa* (1885) ILR 9 M 102 and *Kottalanada v. Muthayya* (1886) ILR 9 M 374. I hold then that Section 20 means that any Magistrate authorised under the Criminal Procedure Code by the District Magistrate to take cognizance of offences is thereby authorised to take cognizance of an offence under this section. This is the view held in *Emperor v. Vishvanath Vishnu Joshi* (1919) ILR 44 Bom. 42 and derives support from that in *Budhan Mahto v. Issur Singh* (1907) ILR 34 Cal 926 although the point now taken based on the wording of the section was not specifically raised. There is therefore no lack of jurisdiction and this objection fails.

2. It has been further urged that a joinder of charges for offences under Section 20 of the Cattle Trespass Act, and Section 504 of the Indian Penal Code was illegal. No objection was taken to this joinder until now. The insult complained of was so near in point of time and place that it may reasonably be held to have formed part of the same transaction. I am not prepared to hold the joinder illegal.

3. I therefore dismiss this petition.