

SUBUDHI
SINGI.

the expiration of the term, the decree-holder applied to the Court to prolong the period of imprisonment for two months more, stating that the debtor could be imprisoned for a period of six months, as the amount of debt exceeded Rs. 50.

"Although the matter is a simple one, I am compelled to make the reference as it is a point which I have constantly to deal with and as the question seems to have been never decided before."

Counsel were not instructed.

JUDGMENT:—The Court has no authority to fix any term of imprisonment. On arrest, the judgment-debtor, if he fails to pay the amount decreed and costs, is committed to jail. He can only be released therefrom under the provisions of section 341. If none of these conditions are fulfilled before the expiry of six months in the one case, or six weeks in the other, the judgment-debtor remains in jail the full time.

APPELLATE CRIMINAL.

*Before Sir Arthur J. H. Collins, Kt., Chief Justice, and
Mr. Justice Parker.*

QUEEN-EMPRESS

v.

OOLAGANADAN.*

1889.
September
12, 16.

Criminal Procedure Code, s. 261—Police Act (Act XXIV of 1859), s. 48—“Conservancy clauses”—Jurisdiction of a Bench of Magistrates.

Offences under Police Act, s. 48, are within the cognizance of a Bench of Magistrates.

CASE referred for the orders of the High Court under section 438 of the Code of Criminal Procedure by E. Gibson, District Magistrate of Tanjore.

The Acting Government Pleader (*Subramanya Ayyar*) for the Crown.

The facts of the case and the arguments adduced on it appear sufficiently for the purpose of this report from the judgment.

JUDGMENT:—The accused has been convicted by the Bench of

* Criminal Revision Case No. 343 of 1889.

Magistrates at Negapatam for exposing goods for sale on the road so as to obstruct passengers, and fined two annas. The District Magistrate refers the case on the ground that, according to the construction placed by the High Court in Criminal Revision Cases Nos. 69 of 1886 and 488 to 492 of 1888, upon the phrase "conservancy clauses" in clause b, section 261 of the Criminal Procedure Code, an offence punishable under section 48 of the Police Act XXIV of 1859 is not within the cognizance of a Bench of Magistrates. The decisions referred to were passed by single Judges in the admission Court and not by a Bench.

Under section 261, clause b, of the Criminal Procedure Code, Benches of Magistrates are empowered to try certain offences against Municipal Acts and the conservancy clauses of Police Acts. On referring to the General Police Act XXIV of 1859 we observe that section 48 is the only section which can possibly be referred to, since all other offences punishable under the Act (sections 18, 20, 44, 45, 46, 47) are offences by or against Police officers in the execution of their duty. The side note to section 48 describes the subject of the section as "certain duties of Police officers within the limits of towns, obstructions and nuisances in roads;" and as the eight clauses of the section are governed by the preamble, we are of opinion that all the clauses relate to offences which are obstructions and nuisances in roads.

Clause 4, section 48, is moreover identical with section 366 of the Madras Municipal Act I of 1884, which falls under Part VI, General Conservancy, and also with section 203 of the District Municipalities Act, and the Government Pleader has pointed out that other clauses in section 48 of the Police Act have been reproduced in the conservancy sections of the Acts relating to the Madras and District Municipalities.

Taking this view we are of opinion that section 48 of the Police Act which relates to obstructions and nuisances in roads (within the limits of towns) is a general conservancy clause, and that offences committed thereunder are within the cognizance of a Bench of Magistrates. The conviction was therefore right.
