

QUEEN-
EMPRESS
v.
VENKATASAMI.

“The offence under section 228 being a non-cognizable offence, the Second-class Magistrate had no jurisdiction to try the case on a police report, and the First-class Magistrate is wrong in construing the evidence of the Village Munsif as a complaint.”

Mr. *Subramanyam* for accused.

The *Government Pleader* and *Public Prosecutor* (Mr. *Powell*) in support of the conviction.

JUDGMENT.—We do not think the provisions of sections 480–482, Criminal Procedure Code, apply to Village Magistrates (section 1, Criminal Procedure Code).

It is true that no complaint was made by the Village Munsif, but that defect is covered by section 537, Criminal Procedure Code. The Second-class Magistrate is of a grade competent to try the complaint, and the sentence was reduced to simple imprisonment on the appeal. The imprisonment has been undergone.

There is nothing now to call for our interference. The petition is dismissed.

APPELLATE CRIMINAL.

Before Mr. Justice Muttusami Ayyar and Mr. Justice Handley.

QUEEN-EMPRESS,

v.

VIRANNA AND OTHERS.*

1891.
Sept. 14.

Criminal Procedure Code, s. 40—Transfer of a Sub-Registrar invested with powers of a Special Magistrate—Act XXIV of 1859 (Madras), s. 48.

A Sub-Registrar having been invested with Magisterial powers with reference to offences under Act XXIV of 1859 was transferred from the place where he was officiating at the time he was so invested to another place, and there took on to his file and tried certain cases. The District Magistrate having reported the cases for the orders of the High Court, the Court declined to quash his proceedings.

CASE reported for the orders of the High Court under Criminal Procedure Code, s. 438, by A. W. B. Higgins, Acting District Magistrate of Kistna.

The case was stated as follows :—

“The Sub-Registrar of Ponnur, M. Safdar Ali Saheb, was invested with third-class powers for trial of offences under

* Criminal Revision Cases Nos. 353 to 358 of 1891.

“ section 48 of Act XXIV of 1859 by him as a Special Magistrate
 “ within the said town (*vide* Notification No. 388, published in
 “ the *Fort St. George Gazette*, dated 16th August 1887). This
 “ officer was recently transferred from Ponnur to Gannavaram,
 “ another Sub-Registrar’s station in the district, he requested the
 “ Head Assistant Magistrate to inform him if he could continue
 “ exercising at the latter station the powers already granted to him.
 “ The matter was referred to me by the Head Assistant Magistrate
 “ for orders. As I considered that the Sub-Registrar’s previous
 “ powers were limited to the town of Ponnur, I requested the
 “ Government for his investiture with powers in respect of Ganna-
 “ varam. The Sub-Registrar not having qualified himself by
 “ passing the requisite tests, the Government in its order No. 613
 “ of 29th May 1891 declined to grant him the powers applied for ;
 “ but before the Government order reached him, he began taking
 “ up cases on his file and completed the trial of the six cases so
 “ taken up. In explanation for this, he states that on further
 “ consideration, he thought he could exercise the powers at the new
 “ station under section 40, Criminal Procedure Code, as the same
 “ were not withdrawn after his transfer. . I consider that as he
 “ had only received powers in respect of Ponnur, he could exercise
 “ no powers at Gannavaram, and that, under section 530, Criminal
 “ Procedure Code, cl. (p), his proceedings are void.”

QUEEN-
 EMPRESS
 v.
 VIRANNA.

Counsel were not instructed.

JUDGMENT.—It appears to us that under section 40, the Sub-Registrar was competent to exercise on his transfer to Gannavaram the powers conferred upon him as Sub-Registrar of Ponnur unless the local Government directed him not to exercise them. In the Government order of 29th May last, the Government declined to invest him with those powers as Sub-Registrar of Gannavaram. The order was passed apparently under the impression that the powers had to be conferred again whilst no such fresh grant of powers was necessary under section 40. Again the Government order was not communicated to the Sub-Registrar until after he had decided the cases under reference. We do not think that under these circumstances there is any necessity to interfere.
