

QUEEN-
EMPRESS
v.
MUPPAN.

p. 567, Roscoe, 11th edition, p. 453, and Bishop's Criminal Law, 7th edition, section 1104). Consequently in the present case the neglect of the police officer in absenting himself from the place where the accused was detained when he escaped does not affect the accused's guilt.

We decline to interfere.

APPELLATE CRIMINAL.

Before Mr. Justice Best and Mr. Justice Subramania Ayyar.

PALANIAPPA CHETTI AND OTHERS (PETITIONERS),

v.

DORASAMI AYYAR AND OTHERS (RESPONDENTS).*

*Criminal Procedure Code—Act X of 1882, ss. 144, 435—Disputed possession—
Revision by High Court.*

The District Temple Committee dismissed the trustees of a certain temple and appointed others. The dismissed trustees retained possession. A breach of the peace having become imminent in the opinion of a Deputy Magistrate, he made an order under Criminal Procedure Code, section 144, directing the newly-appointed trustees not to interfere with the temple or its management :

Held, that the High Court had no power to interfere in revision under Criminal Procedure Code, section 435.

PETITION under Criminal Procedure Code, sections 435 and 439, praying the High Court to revise the proceedings of E. C. Rawson, Acting District Magistrate of Trichinopoly, affirming the order of Khadir Knavaz Khan, Deputy Magistrate of Trichinopoly.

The order sought to be revised was made under Criminal Procedure Code, section 144, and it directed certain persons who were the petitioners in the High Court not to interfere with a temple at Lalgudi or with its management. These persons had been appointed trustees of the temple in question by the majority of the Temple Committee of the district, in the place of certain other persons who had been dismissed from that office by the same authority. Contests having arisen between the dismissed trustees and those appointed in their places, the Deputy Magistrate, being of opinion that a breach of the peace was imminent, made the order in question. This order was affirmed by the District

* Criminal Revision Case No. 177 of 1896.

Magistrate, who concurred in the finding that the dismissed trustees remained *de facto* in possession. He pointed out that no steps had been taken to eject the dismissed trustees, and that the Temple Committee had no power to dismiss them except for good and sufficient cause, and he declined to draw the presumption that the dismissal was legal and their retention of possession in consequence wrongful.

The newly-appointed trustees preferred this petition.

Mr. *H. G. Wedderburn* for petitioners.

Mr. *E. Norton* for respondents.

The Government Pleader and the Public Prosecutor (Mr. *E. B. Powell*) for the Crown.

JUDGMENT.—We are clearly of opinion that the Deputy Magistrate acted within his jurisdiction in passing the order complained of under section 144 of the Code of Criminal Procedure. Cf. *Ramanuja Jeeyarsvami v. Ramanuja Jeeyar*(1).

It was not necessary for him to decide the question as to possession before passing such order and his finding that counter-petitioners were in possession is merely incidental and in the absence of any necessity in his opinion for the passing of an order under section 145, we cannot say that the order passed by him was improper. Moreover, under section 435 of the Code we have no power to interfere with an order passed with jurisdiction under section 144.

This petition is dismissed.

APPELLATE CIVIL.

Before Mr. Justice Muttusami Ayyar and Mr. Justice Best.

SESHAMMA (PLAINTIFF), APPELLANT,

v.

SUBBARAYADU (DEFENDANT,) RESPONDENT.*

Hindu law—Widow's suit for maintenance—Previous demand—Right to arrears.

A Hindu widow brought a suit against her husband's brother to establish her

PALANIAPPA
CHETTI
v.
DORASAMI
AYYAR.

1893.
October
24, 26.

(1) I.L.R., 3 Mad., 354.

* Second Appeal No. 282 of 1893.