

APPELLATE CRIMINAL.

Before Mr. Justice Jackson.

CHITRALA RAMIAH (FIRST ACCUSED), PETITIONER,

v.

NATUKULA RAMIAH AND ANOTHER (COMPLAINANT AND
SECOND ACCUSED), RESPONDENTS.*

1926,
August 3.

Same issue agitated both in civil and criminal Courts—If civil proceeding to be given precedence over criminal—General rule applicable.

There is no invariable rule that when the same issue is agitated both on the civil and criminal side, the civil shall take precedence of the criminal Court. Each case must be considered on its own merits, and the only general rule that can be adumbrated is that every Court should be left as far as possible to dispose of the cases on its file with the utmost expedition.

Ram Saran Singh v. Nikhad Narain Singh, (1925) A.I.R. (Patna), 619.

Sheikh Bahatur v. Nobadali (1924) A.I.R. (Calc.), 634, followed.

PETITION under section 344 of the Code of Criminal Procedure, 1878, and section 107 of the Government of India Act, praying the High Court to stay proceedings in Preliminary Register Case No. 4 of 1926, on the file of the Court of the Second-class Magistrate of Giddalur pending disposal of Original Suit No. 148 of 1926, on the file of the Court of the District Munsif, Markapur.

K. B. Ranganatha Ayyar for petitioner.

K. Krishnaswami Ayyangar for first respondent.

No one appeared for the second respondent.

JUDGMENT.

The petitioner, an accused in P.C. 4 of 1926 on the file of the Stationary Sub-Magistrate, Giddalur,

* Criminal Miscellaneous Petition No. 308 of 1926.

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applied for stay of that criminal proceeding during the pendency of Original Suit No. 148 of 1926 which he subsequently instituted in the Court of the District Munsif of Markapur. The Sub-Magistrate refused the application and hence this petition.

Applications of this sort are sometimes argued as if there were an invariable rule that when the same issue is agitated both on the civil and the criminal side, the civil shall take precedence of the criminal Court. This is not so. Each case must be considered on its own merits and the only general rule that can be adumbrated is that every Court should be left as far as possible to dispose of the cases on its file with the utmost expedition. This rule is in the interests not only of public administration but also of private persons involved in criminal proceedings; for no one wishes to have a criminal charge kept hanging indefinitely over his head. If authority were required for the above proposition, there is the Patna ruling:—"It is the policy of the law to go on immediately with the inquiry." *Ram Saran Singh v. Nikhad Narain Singh*(1), which is founded on *Sheikh Bahatur v. Nobadali*(2). Another Patna ruling on which the petitioner relies *Phuleshra Kuer v. Emperor*(3), proceeds on the assumption that there may be manifest and irreparable injustice done in the criminal Court, but, with all respect, I do not think that such an assumption can properly be made when the integrity of the Court is not impugned. It must be assumed that in either Court justice will be done and which Court precedes the other is merely a question of convenience. Of course, in those cases arising out of a disputed title on which it is difficult to draw the line between bona fide claim and criminal trespass, if the title is already

(1) (1925) A.I.R. (Patna), 619.

(2) (1924) A.I.R. (Calo.), 634.

(3) (1921) 62 L.C., 185.

the subject matter of a civil suit before the institution of criminal proceedings, it may be advisable for the criminal to abide the civil trial; this is laid down in *Khobhari Rai v. Bhagawat Rai*(1) and relied upon by the petitioner, but the facts are far removed from those of his case.

I have considered the petition on the merits, but this Court will not ordinarily interfere, if the Court refusing to act under section 344, Criminal Procedure Code, has exercised a judicial discretion. This too is laid down in *Ram Saran Singh v. Nikhad Narain Singh*(2).

The petition is dismissed.

B.C.S.

APPELLATE CRIMINAL.

Before Mr. Justice Wallace.

DEENADAYALU NAIDU AND TWO OTHERS

(ACCUSED), PETITIONERS,

v.

RATNA PADAYACHI (COMPLAINANT), RESPONDENT.*

Cattle Trespass Act (I of 1871), sec. 20—Criminal Procedure Code (V of 1898), ss. 4 (c), 29—Magistrate authorized to receive and try charges—If special authorization necessary regarding offence under sec. 20.

Section 20 of the Cattle Trespass Act empowers any Magistrate, authorized under the Criminal Procedure Code by the District Magistrate to take cognizance of offences, to take cognizance of an offence under that section.

Emperor v. Vishwanath Vishnu, (1920) I.L.R., 44 Bom., 42, approved.

Budhan Mahto v. Issur Singh, (1907) I.L.R., 34 Calc., 926, referred to.

(1) (1917) 41 I.C., 147.

(2) (1925) A.I.R. (Patna), 619.

* Criminal Revision Case No. 157 of 1926.