

APPELLATE CRIMINAL.

*Before Mr. Justice Devadoss.**In re* RAMALINGA ODAYAR AND ANOTHER
(ACCUSED), PETITIONERS.*1927,
November
29.*Criminal case—Transfer of—Previous notice to accused—If necessary—Re-transfer to same Court or transfer to any other—If proper.*

Before an order transferring a criminal case from the file of one Court to that of another is made, notice must be given to the accused to show cause why the transfer should not be made.

On sufficient grounds being shown, a case once transferred can be re-transferred to the same Magistrate or transferred to any other Magistrate.

PETITION praying that the High Court will be pleased to issue an order directing the transfer of C.C. No. 20 of 1927 on the file of the Court of the Subdivisional Magistrate of Mayavaram, pending before the Additional District Magistrate of Tanjore back to the Court of the Subdivisional Magistrate of Mayavaram.

V. L. Ethiraj and S. Nagaraja Ayyar for petitioners.
Public Prosecutor for the Crown.

JUDGMENT.

This is an application for transfer of C.C. No. 23 of 1927 on the file of the Court of the Subdivisional Magistrate, Mayavaram, now pending before the Additional District Magistrate, Tanjore, back to the Subdivisional Magistrate of Mayavaram. The main ground urged by Mr. Ethiraj is that his clients, the accused, were not given notice before the transfer was ordered. In cases of transfer, the District Magistrate, before passing an order of transfer, should give an opportunity to the accused to show cause why a transfer should not be made. In this case, the accused were not given

* Criminal Miscellaneous Petition No. 840 of 1927.

notice of the application for the transfer of the case and the learned District Magistrate seems to have thought that he had no power to revise his own order. It cannot be said that an order of transfer is a final order. If sufficient grounds are shown, the case once transferred can be re-transferred to the same Magistrate or transferred to any other Magistrate who in the opinion of the District Magistrate would be the proper person to try the case. On the sole ground that the accused had no notice of the application for transfer, I set aside the order of the District Magistrate. It is open to him to transfer the case back to the Subdivisional Magistrate of Mayavaram or to transfer the case to the Additional District Magistrate or to any other Subdivisional Magistrate who in his opinion should try the case.

RAMALINGA
ODAYAR,
In re.

B.C.S.

PRIVY COUNCIL.*

SECRETARY OF STATE FOR INDIA IN COUNCIL
(DEFENDANT), APPELLANT,

1928,
June 14.

v.

VALARPURAM KANDADAI RAMANUJACHARIAR
AND OTHERS (PLAINTIFFS), RESPONDENTS.

[On Appeal from the High Court of Madras.]

Land Revenue—Madras Presidency—Enhancement of rate—Settlement of 1910—Achukattu lands—Conversion from dry to wet—Construction of Settlement Notification.

Prior to the thirty years' settlement of 1910 in the Madras Presidency certain ryots in the Chingleput District had constructed round lands of which they were the pattadars, bands

* Present: VISCOUNT SUMNER, MR. AMBER ALI and SIR JOHN WALLIS.