discretion of the magistrate and it is unnecessary for me to say anything more about it.

As regards the owner of the vehicle he is clearly guilty under section 166. This point is covered by a distinct ruling of my brother WALLACE reported in *Sivarama Mudaliar* v. *Muthannanaiengar*(1) and it is unnecessary for me to repeat the observations of the learned Judge. I set aside the acquittal order of the owner of the vehicle and direct the second-class magistrate to take the case on his file and dispose of it according to law.

B.C.S.

APPELLATE CRIMINAL.

Before Mr. Justice Wallace.

In re TARANAGOWD AND SIX OTHERS (ACCUSED), PETITIONERS.*

1927, February 16.

Code of Criminal Procedure, sec. 107—Security—For a certain period—When commences.

Where a magistrate taking action under section 107 of the Criminal Procedure Code passes an order directing a person to furnish security for keeping the peace for a certain period, the said period begins to run from the date on which the final order under section 118 is made and not from the date on which the preliminary order under section 112 is made.

The joinder of several accused in one trial under that section is not illegal, where there is a common purpose animating all the accused, and the evidence of witnesses who speak to acts by some only of the accused is relevant to prove the common purpose animating all.

(1) (1927) I.L.R., 50 Mad., 913.

* Criminal Revision Case No. 912 of 1926.

TARANAGOWD, *In re.*

PETITION under sections 435 and 439 of the Code of Criminal Procedure, 1898, praying the High Court to revise the judgment of the Court of Session of the Bellary Division, dated 15th November 1926 in Criminal Appeal No. 23 of 1926 preferred against the judgment of the Court of the Subdivisional Magistrate of Bellary in Mis. Case No. 22 of 1926.

V. L. Ethiraj and *A. S. Sivakaminathan* for petitioners.

R. N. Aingar for *Public Prosecutor* for the Crown.

JUDGMENT.

This Criminal Revision Case is against the order of the Sessions Judge of Bellary dismissing an appeal to him against an order of the Subdivisional Magistrate of Bellary in a case under section 107 of the Criminal Procedure Code. Two points are urged: (1) that the period for which security has been ordered to be given exceeds the period fixed in the preliminary order under section 112; (2) that the joint trial of the petitioners was illegal and highly prejudiced them.

As to point (1), the preliminary order under section 112 was drawn up apparently on 28th October 1925. Then the date has been struck out and 4th January 1926 entered. That order called on the petitioners to show cause against giving security to keep the peace for one year, not, be it noted, for one year from that date. The final order was written and signed apparently on 20th September 1926 and pronounced on 2nd October 1926. It is petitioner's contention that it is not open to the trial Court to order security for more than one year from the date of the preliminary order, that is, at the furthest, up to 4th January 1927. I am not prepared to accept this argument, which would entail that in a case of this kind the time occupied by the trial would have to be subtracted from the period for which

a security should be given. Such an interpretation of the law is bound to encourage accused persons in prolonging the trial as long as possible, since the longer they prolong it, the shorter will be the time for which they will give security; in fact, were they successful in prolonging the trial for one year, they will escape having to give security at all, and render the whole proceedings something of a farce. I am clear that this was not the intention of the Code. Section 120, sub-section (2) lays down clearly that the period for which security shall be given shall commence on the date of the order under section 118, that is, the date of the final order.

As to the second point, the argument is that the joinder of the petitioners in one trial has prejudiced them because the lower Courts have considered the evidence as a whole against all the petitioners and thus have used against some petitioners evidence which was given only against others. There were seven accused and the general case against them was that accused 2 to 7 are the hangers on of the 1st accused who is the Village Reddi, and, owing to enmity between 1st accused and P.W. 1, the 1st accused along with these adherents of his, accused 2 to 7, have been making P.W. 1's life in the village a burden to him, endeavouring to have him boycotted by the coolies and barbers and to drive him from the village. The prosecution case was that all these accused combined with one purpose to bring about this result. I have studied the evidence as a whole and it is clear that it is all directed towards this common purpose animating all the accused, namely, accused 1 urging the other accused to accomplish his purpose and the other accused carrying out in various ways petty acts of social tyranny and use of criminal force to aid and abet the 1st accused in his

TARANAGOWD, *In re.*

purpose. It is not a case where evidence is given of isolated acts which have no relation to this common purpose. The evidence of witnesses who speak to only some of the accused doing a particular act is therefore in my view relevant to prove the common purpose animating all of them. In these circumstances it appears to me that the joint trial was proper and that no illegality or prejudice to the accused has occurred.

My attention has been called to a ruling of a single Judge of this Court reported in *Kutti Goundan, In re*(1). It however can easily be distinguished on the facts. In that case two persons were put up jointly for giving security under section 110, clauses (*d*), (*e*) and (*f*), that is, put shortly, for being habitual extortioners, mischief-makers, and dangers to the community. The learned Judge held that the evidence regarding their association in their nefarious acts was not strong. That being so, he held that their joint trial, prejudiced each of them. The case in *Hari Telang* v. *Queen Empress*(2), was also a case under section 110, clauses (*d*), (*e*) and (*f*), and the Court held that it was improper to try jointly two persons charged under section 110 (*f*), because it could not be said that their individual characters were so connected together that a joint trial on the ground that their characters render them dangerous persons was permissible. The case in *Emperor* v. *Angu Singh*(3) is very similar and in it also the learned Judge held that evidence connecting the various accused together was very vague, general and of a hearsay description.

This cautionary principle does not apply to the present case. The essence of it is that the petitioners formed one gang with one purpose, namely, that of harassing P.W. 1, and each act spoken to is an act

(1) (1924) 47 M.L.J., 689. (2) (1900) I.L.R., 27 Calc., 781.
(3) (1923) I.L.R., 45 All., 109.

prompted by that common object and directed towards accomplishing it. The evidence of the common association of all the petitioners for that one purpose was particularly strong.

I do not find that any objection on the ground of joint trial was taken before the trial Court, and it certainly was not made a ground of appeal, before the Sessions Judge. In these circumstances, I am not prepared to say that the joint trial was illegal or in any way prejudiced the accused. I am not prepared to interfere in this case and dismiss the petition.

B.C.S.

APPELLATE CRIMINAL.

Before Mr. Justice Madhavan Nair and Mr. Justice Reilly.

PUBLIC PROSECUTOR, APPELLANT,

v.

PALANIYANDI NAICKEN, ACCUSED.*

1927, October 19.

Madras Local Boards Act, sec. 3 (18) (c)—Public road—Meaning of road poramboke—Encroachment on—Not causing obstruction to public—Conviction for.

Under section 3 (18) (*c*) of the Madras Local Boards Act public road includes land registered as road poramboke and which lies on either side of the roadway up to the boundaries of the adjacent property. Such land is vested in the District Board and the public have a right of way over every part of it.

Failure to vacate an encroachment on road poramboke after notice and conviction renders the person encroaching liable to conviction under sections 159 (1) and 207 (2) of the Madras

* Criminal Appeal No. 540 of 1927.