

RANGASAMI
GOUNDAR,
In re.

Although I hold that the acquittal of the person harboured cannot affect the legality of the conviction, I think it may well be taken into consideration in awarding sentence. The petitioner has been sentenced to rigorous imprisonment for six months and it appears that the circumstance that the person harboured had received a sentence of two years was weighed in awarding that sentence. Since the latter has subsequently been acquitted, it will, I think, meet the ends of justice if the term of imprisonment awarded be limited to the period already undergone. To this extent, I allow this Criminal Revision Petition.

B.C.S.

APPELLATE CRIMINAL.

*Before Sir Murray Coutts Trotter, Kt., Chief Justice
and Mr. Justice Pakenham, Walsh.*

GNANAMBAL (PETITIONER), PETITIONER.*

1928,
July 31.

*Criminal Procedure Code, sec. 448—Maintenance order under—
Person made liable to pay residing outside jurisdiction of
Court passing order—If such Court competent to enforce
order.*

A Magistrate making an order for maintenance under section 448 of the Criminal Procedure Code is competent to enforce it against the person made liable for the payment of such maintenance, even though such a person resides outside the jurisdiction of his Court.

PETITION under sections 435 and 439 of the Code of Criminal Procedure, 1898, praying the High Court to

* Criminal Revision Case No. 451 of 1928.

GNANAMBAL,
In re.

revise the order of the Court of the First Class Sub-divisional Magistrate of Mayavaram, N. Dis. No. 42 of 1928, dated 17th April 1928, returning the application of the petitioner for the collection of arrears of maintenance due to her from the respondent under the order of the High Court, dated 24th September 1924 and passed in Criminal Revision Case No. 862 of 1923 (M.C. No. 15 of 1922 on the file of the Court of the Subdivisional Magistrate).

K. Sankara Sastri for petitioner.

Public Prosecutor for the Crown.

JUDGMENT.

This woman got an order for maintenance against her husband from the Court of Mayavaram. Her husband fell into arrears as they generally do and she then went to the Mayavaram Court to get the order enforced. The Magistrate for some reason which it is difficult to fathom said he was not going to enforce the order although it was made in his own Court but she must get it enforced by the Court within whose jurisdiction the husband then resided. It would be intolerable that such a burden should be put upon holders of maintenance orders. They would have to rush about the country pursuing the absconding husband, it may be, to wherever he chooses to go before the order could be enforced. We upset the order of the Magistrate and direct that a warrant for the amount issue.

B.C.S.
