

Appellate Jurisdiction. (a)*Criminal Petition No. 79 of 1870.*ARUNACHELLA REDDI and 5 others.....*Petitioners.*

The High Court does not exercise its powers of transfer in a case of forgery or perjury solely on the ground that the Judge who is to try the case has formed an opinion that the document has been forged or the perjury committed.

But when the transfer can be made without risk of any improper interference with the course of justice and without much inconvenience to the parties and witnesses the transfer would be proper not only as a fair concession to the accused person, but as a means of relieving the Judge from a position which he would himself desire to avoid.

1870.
March 4.
C. P. No. 79
of 1870.

THIS was an application under Section 35 of the Criminal Procedure Code praying the High Court to order the transfer of a case now pending before the Session Court of Salem, for forgery, to any other Court for trial.

O'Sullivan, for the petitioners.

The Court delivered the following

JUDGMENT:—As a general rule the Court does not exercise its powers of transfer in a case of forgery or perjury solely on the ground that the Judge who is to try the case has already formed an opinion that the document has been forged or the perjury committed sitting as a Judge on the Civil side. But when the transfer can be made without risk of any improper interference with the course of justice and without much inconvenience to the parties and witnesses, as it is pointed out to us can be done in the present case, we think the transfer proper not only as a fair concession to the person charged, but as a means of relieving the Judge from a position which he would himself desire to avoid. We hope that the Session Judge will be able to arrange for sending the record and the witnesses and prisoners to Coimbatore without delay so that the trial may take place at the March Sessions. A copy of this judgment will be furnished to the Session Judge of Coimbatore.

(a) Present: Scotland, C. J. and Holloway, J.