

In the High Court of Judicature at Patna.
Criminal Jurisdiction
(~~Civil Appellate Side.~~)



TITLE PAGE.

PART I.

(THIS FILE MUST BE PRESERVED FOR EVER.)

~~APPEAL FROM~~ *Criminal Revision*

No. 93 of 1922

Sri Sri Khandamuni Debi - Accused - Petitioner
~~Appellant~~

Respondents.

DATE OF DECISION OF HIGH COURT 27-1-1922

DITTO

OF PRIVY COUNCIL

In the High Court of Judicature at Patna.

Criminal Jurisdiction.

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Criminal Revision No. 93 of 1922

Shri Shri Kandan Mohan Singh Appellant
Petitioner

versus

Respondent
Of posse-party

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Compared and found correct.

[Signature]
Signature of Officer of Court.

93/1922-02

Date 13/8/22

Record-keeper

See 205

14 Bom da Depu 236

17 Cal. W. 1248

The 3 accused

is a forka lady and belong
to a respectable & ammal family
of Gurnam

I am of opinion that the
Sessions Judge has power to
dispense with the personal
attendance of the accused
and permit her to appear by
pleader during the Sessions trial

Section 205 empowers the magistrate
to do so and here the accused

On P's side which is left to the
mode of recording evidence
in trials including her own
that she has been examined
in the presence of the accused
except when personal attendance
is dispensed with in which case it
shall be taken in the presence of
her pleader. I do not think

that there is anything in the Code
to prevent the Sessions Judge
from doing what a magistrate
is empowered to do as regards
attendance by the accused and

Sec 353 implies from the power
as Chapter 23 which relates to
trial before High Courts and Courts
of Sessions is included in Sec 353

HIGH COURT.

CRIMINAL

REVISION CASE

No. 93 of 1922

Criminal Revision Petn. No. 57 of 1922

Sri Sri Sri Kandamani
Devi (3rd accused)

PETITIONER

By Mr C. Sambasiva Row

DISTRICT

Ganjam

Sessions Case No. 2 of 1922 on the file
of the Sessions Court of
Ganjam

Sentence. Refusing to dispense
with the personal
appearance of the
petitioner, 3rd accused.

Date of sentence

Order

20-1-1922

Orders are solicited on the following points:-

1. Notice to P. P.
2. Notice to accused.
3. Post before a single judge,
or
Post before a bench of two judges.
4. Print evidence
or
(Do not print evidence) if part does not print.

ent. n. No. 54 of 1922

To be heard on

93/1922-03

despising with her
personal attendance

JB

27.1.22

In Empire & King 14 Monday
Law Reports 236 it was
held that the Chap Court has
power under the former provision

of the Cr P D Code to dispense
with the attendance of a
accused during his absence from

In Ray Rayson June 17
King Empire 17 and 18

Inman & Chapman JJ directed
Pondanashin, Cadis, to appear
by pleader both in the Magistrate
Hessin County, except to their
having it appear in fact to
be a person on whom a writ of habeas
corpus is granted

having regard to the habits

and customs of the County and
the several attempts that attack
to force ladies to appear, provided
I think it will be in the
interests of justice that they
should not be compelled to
appear in public or before
magistrates, are concerned

On his behalf I think

that having regard to the habits
of the accused of course the plea
that in the County Magistrate
Court I will be exercising a
proper discretion in allowing
her to appear by pleader

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Friday, the Twenty-seventh day of January

One thousand nine hundred and Twenty-two

PRESENT:—

The Honourable

The Honourable Mr. Justice Kumaraswami Sastri

CRIMINAL REVISION CASE No. 93 of 1922.

~~and Criminal Miscellaneous petition No 54 of 1922.~~

(CRIMINAL REVISION PETITION No. 87 1922)

and Cr. Mis. Petition No. 54 of 1922

Sri Sri Sri Kandamani Devi

Petitioner, in both.

(3rd accused in
Sessions case No 2
of 1922 on the file
of the Court of Session,
Gangam)

Criminal Revision Case No. 93 of 1922
and Criminal Miscellaneous petition No 54 of 1922

Petition under Sections 435 and 439 of the Code of Criminal Procedure, 1898,
praying the High Court to revise the

order of the Court of Session,
Gangam Division, dated 20th January 1922,
in Sessions case No 2 of 1922.

Criminal Miscellaneous petition No 54 of 1922

petition praying that in the circumstances stated in the
Memorandum of Criminal Revision ~~petition No 87 of 1922~~
the High Court will be pleased to issue an order

~~This Case coming on for hearing, upon perusing the Petition and the~~
directing that the personal appearance of the
petitioner herein, ~~in (3rd accused in S.C. No 2 of~~
~~1922 on the file of the Court of Session, Gangam)~~
in Sessions case No 2 of 1922 on the file
of the Court of Session, Gangam Division,

be dispensed with.

These petitions coming on for hearing,
upon perusing the petitions, ~~and~~ ^{the revision petition} the
grounds of appeal, and the order of the
Court of Session and upon hearing
the arguments of Mr. C. Sambasiva Row,
counsel for the petitioners, the Court
made the following ~~order~~

order

3
The 3rd accused
is a gosha lady and
belongs to a respectable
zamindar family of
Gumsur. I am of
opinion that the Sessions
judge has power to
dispense with the
personal attendance
of the accused and
permit her to appear
by pleader during the
sessions trial. Section
205^{code of} Cr. Procedure
empowers a
magistrate to do so

and section 353 of the
code of criminal
procedure which
refers to the mode
of recording evidence
in trials - sessions
trials, states that
evidence shall be
taken in the presence
of the accused except
where personal
attendance is dispensed
with, in which case
it shall be taken
in the presence of his

pleader. I do not think
that there is anything
in the code to prevent
the sessions judge from
doing what a magis-
trate is empowered
to do as regards
attendance by the
accused and section
353 impliedly gives
the power as chapter
23 which relates
to trials before High
courts and Courts
of Session, is included

in Section 353. In

^{C.M.}
Emperor vs King

14 Bombay Law

Reporter 236, it

was held that the

High Court has

power under the

provisions of Section

353 of the Code

of Criminal Procedure

to dispense

with the attendance

of the accused during

the sessions trial.

In Raj Rageshwari

Debi vs King Emperor.

17 cal Weekly Notes ¹²⁴⁸_{± 1.}

Imam and Chapman J.

directed purdarashin

ladies to appear by

pleader both in the

magistrates and

sessions courts,

subject to their having

to appear in court

to hear sentence

in case of conviction.

Having regard

to the habits and

customs of the country

and the social stigma
that attaches to

gosha ladies breaking
purda, I think it
will be in the interests
of justice that they

should not be
compelled to appear
in public at least
until they are
convicted.

On the merits I
think that having regard
to the nature of the evi-
dence against the

petitioner in the com-
mitting magistrate's
court, I will be exer-
cising a proper dis-
cretion in allowing her
to appear by pleader
and dispensing with
her personal attend-
ance.

the Court
25/1
Ag Deputy Registrar
app Side.

To

(1) The Sessions Judge of
Gangam.

(2) The District Magistrate
of Gangam
through the Sessions Judge

MR

Kumarawati Sathi T

Dated 27-1-22

27/1/22

27 JAN 1922

Order

Criminal Revision Case

No 93 of 1922

and Criminal Miscellaneous

Petition No 54 of 1922

(or Rev pr No 87 of 1922)

45/1/22

Reversing the order of

the sessions judge of

Gangam in S.C No 2 of

1922 and dispensing

with the personal

attendance of the

3rd accd in the said

S.C No 2 of 1922.