

(1955) 01 KAR CK 0001

Mysore High Court

Case No: Criminal Petition No. 115 of 1954

State of Mysore

APPELLANT

Vs

Rangappa

RESPONDENT

**Date of Decision:** Jan. 4, 1955

**Acts Referred:**

- Criminal Procedure Code, 1898 (CrPC) - Section 526, 531

**Citation:** AIR 1955 Kar 134 : (1955) CriLJ 1511

**Hon'ble Judges:** Venkataramaiya, J

**Bench:** Single Bench

**Advocate:** Asst. A.G, for the Appellant;

### Judgement

@JUDGMENTTAG-ORDER

1. In the charge sheet presented by the Police in C.C. No. 53 of 1954 on the file of the First Class Magistrate, Chikmagalur, the accused is said to have committed offence of theft with respect to a carpet in Tiptur which is admittedly not within the jurisdiction of the Magistrate. Consequently he desired that the case should be transferred to the Court competent to try it. The District Magistrate on being apprised of this has sought for orders of this Court for the case being tried in Chikmagalur itself as the complainant, the accused and the witnesses are all residents of that place and trial of the case there will be conducive to their convenience as well as speedy disposal of the case. The accused though notified, is absent and unrepresented.

A doubt was at first felt whether Section 526, Criminal P. C. can be availed of when the case was wrongly instituted in a Court and no question of sending the case from one court to another is involved. There are, however, instances in which this is considered to be possible under the said section.

In -- "Queen-Empress v. Atmaram Govind" 2 Bom LR 394 (A) a case was committed to a Court of Session which had no jurisdiction to deal with it and the High Court nevertheless directed that the case may be proceeded within that Court.

"In re Ganapathy Chetty" AIR 1920 Mad 824 (B) is a similar case.

In 39 Mys HCR 907 (C), it has been held by a Bench of this Court that u/s 526, Criminal P.C., a case may be transferred to the Court having jurisdiction from a Court not having jurisdiction. Section 531, Criminal P. C. states that the proceedings in a wrong Court are not to be treated as invalid unless there is failure of justice. In the present case, I am satisfied that it will materially contribute to the convenience of the parties and facilitate the expeditious disposal of the case if it is tried in Chikmagalur. I, therefore, direct that the case be tried in the Court where it is now pending.

2. Order accordingly.