

1950

Present: **Basnayake J.**

LANTRA (Police Sergeant), Petitioner, and LETCHIMAN CHETTIAR,
Respondent

S. C. 576—IN THE MATTER OF AN APPLICATION TO REVISE THE ORDER
MADE IN M. C. MANNAR, 8,444

*Informers Reward Ordinance (Cap. 21)—Section 2—Order made thereunder—Point
of time at which it should be made—“ Informer ”—Police Ordinance (Cap. 43),
ss. 57, 72.*

An order under section 2 of the Informers Reward Ordinance should be made at the same time as the order imposing the fine.

The effect of the proviso to section 72 of the Police Ordinance is that where a police officer acts the part of an “ informer ” properly so called, the share of the fine should be paid to the Reward Fund contemplated therein and not to the “ informer ” personally as prescribed by the Informers Reward Ordinance.

THIS was an application to revise an order of the Magistrate’s Court, Mannar.

A. E. Keuneman, Crown Counsel, for the Attorney-General.

No appearance for the respondent.

Cur. adv. vult.

June 26, 1950. BASNAYAKE J.—

This is an application by the Attorney-General to have the order of the learned Magistrate, directing the payment to the Police Reward Fund of one-half of the fine imposed by him on the accused, set aside.

Shortly the material facts are as follows: On November 24, 1948, Police Sergeant Lantra made a report under section 148 (1) (b) of the Criminal Procedure Code to the effect that one Periasamy Nadar Letchiman Nadar of Kottadimangalam, Tinnevely Jilla, did on or about the 10th day of November, 1948, at Talaimannar land in the coast of Ceylon without having obtained a “ health pass certificate ” from the Port Health Officer, Mandapam Camp, as required by Quarantine Regulation 84, framed under the Prevention of Diseases Ordinance. On December 8, 1948, on his own plea, Periasamy Nadar was convicted and sentenced to pay a fine of Rs. 50. On January 20, 1949, Police Sergeant Kandiah filed the following motion:—

“ This 20th day of January, 1949, I, P. S. 84 Kandiah on behalf of the District Inspector of Police, Mannar, on instructions from the

S.P., N.P., move that Court be pleased to order that half fines in the above case be awarded to the Police Reward Fund, as the prosecuting officers have failed to move and no order has yet been made."

On January 24, 1949, the learned Magistrate made order directing half the fine to be paid to the Police Reward Fund.

The learned Magistrate does not indicate the provision of law under which he acted. Learned Crown Counsel submits that an order awarding the payment of any share of a fine not exceeding one-half to the Police Reward Fund can be made in respect of fines imposed for certain offences under section 2 of the Informers Reward Ordinance read with section 72 of the Police Ordinance, but that in this instance the order is bad inasmuch as it was not made at the time the fine was imposed but on a later date. He relies on certain unreported decisions of this Court cited by him.¹

Section 2 of the Informers Reward Ordinance, so far as is material to the consideration of the question arising for decision, reads:

"It shall be lawful for the court before which an offender is convicted of an offence under any of the Ordinances enumerated in the Schedule to direct in respect of any fine that may be imposed for such offence that any share not exceeding one-half thereof or of so much as shall actually be recovered be awarded to the informer."

In my opinion learned Crown Counsel's contention is sound. An order under section 2 of the Informers Reward Ordinance should be made at the same time as the order imposing the fine. The language of the section to my mind does not lend itself to any other construction. The order of the learned Magistrate cannot therefore stand.

But there is a further reason why the order of the learned Magistrate should be set aside in the instant case, and in all the other applications² which depend on this decision. The proceedings in this case as stated above were instituted on a written report made under section 148 (1) (b) of the Criminal Procedure Code by a person who is a peace officer within the meaning of that expression in the Criminal Procedure Code. The provisions of the Informers Reward Ordinance are designed for the rewarding of "informers" in certain cases. The expression "informer" has acquired a definite meaning in English law. It must be understood in our statute in the same sense. It means a person who with a view to gain gives information to a Magistrate or any other authority constituted by law for investigating offences. In certain contexts it is used in the sense of approver. In this country a police officer is a person who is employed by the State in connexion with its functions of maintaining law and order. He is remunerated like any other officer of the public service. His duties are defined by statute. The relevant provisions are sections 57 and 72 of the Police Ordinance which are reproduced below.

"57. Every Police Officer shall for all purposes in this Ordinance contained be considered to be always on duty, and shall have the powers of a Police Officer in every part of this Island.

¹ P. C., *Mannar*, 7,437—S. 3. 1917.

M. C., *Mannar*, 8,548—S. C. 339—29.7. 1949.

M. C., *Mannar*, 8,530—S. C., 369—31.8. 1949.

² S. C., *Applications Nos. 577 to 605.*

“ It shall be his duty—

- (a) to use his best endeavours and ability to prevent all crimes, offences, and public nuisances;
- (b) to preserve the peace;
- (c) to apprehend disorderly and suspicious characters;
- (d) to detect and bring offenders to justice;
- (e) to collect and communicate intelligence affecting the public peace; and
- (f) promptly to obey and execute all orders and warrants lawfully issued and directed to him by any competent authority.”

“ 72. It shall be lawful for any police officer to lay any information before any Magistrate, and to apply for summons, warrant, search warrant, or such other legal process as may by law issue, and may be expedient under the circumstances, against any person committing an offence against any law or enactment, or against any regulation for the protection of the revenue, or against any person committing or failing to remove any public nuisance or unwarrantable obstructions, keeping a disorderly house, harbouring thieves, disturbing the peace, obstructing the due course of justice, and the like: and to prosecute such offenders up to final judgment.

Provided always that any rewards, forfeitures, and penalties, or shares of rewards, forfeitures, or penalties which by law are payable to informers, and all costs of prosecution which may by any enactment be awarded to the prosecutor, shall be paid into a general fund for the reward of police officers to be regulated in manner as the Minister shall from time to time direct.”

Section 22 of the Criminal Procedure Code imposes on a peace officer the obligation of communicating to the nearest Magistrate or Inquirer having jurisdiction or to his own immediate superior officer any information which he may have or obtain respecting the commission of any offence within the local jurisdiction in which he is empowered to act.

To treat a person who is under a duty to bring offenders to justice as an informer is to my mind a violation of the language of the statute, and would be an undue extension of the scope of the expression “ informer ” in the context of the Informers Reward Ordinance. The proviso to section 72 of the Police Ordinance is not designed to alter the entire scope of the Informers Reward Ordinance, nor is it the proper function of a proviso in one enactment to alter the substance of another enactment. In my opinion the effect of the proviso under discussion is that where a police officer acts the part of an “ informer ” properly so called, the share of the fine should be paid to the Reward Fund contemplated therein and not to the “ informer ” personally as prescribed by the Informers Reward Ordinance.

The order of the learned Magistrate ordering that one-half of the fine should be paid to the Police Reward Fund is set aside.

The orders in Applications 577 to 605 are also set aside.

Order set aside..