

MAGISTRATES PROTECTION ACT

CHAPTER 6:03

Act
34 of 1917
Amended by
45 of 1979

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Note on Subsidiary Legislation

This Chapter contains no subsidiary legislation.

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MAGISTRATES PROTECTION ACT

ARRANGEMENT OF SECTIONS

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CHAPTER 6:03

MAGISTRATES PROTECTION ACT

1950 Ed.
Ch. 9 No. 5.
34 of 1917.

An Act to protect Magistrates and Justices from vexatious actions for acts done by them in the execution of their office.

Commencement.

[17TH DECEMBER 1917]

Short title.

1. This Act may be cited as the Magistrates Protection Act.

Interpretation.

2. In this Act, the term “Magistrate” includes a Justice.

Action to be brought in High Court.

3. Every action to be brought against any Magistrate for any act purporting to have been done by him in the execution of his office shall be brought in the High Court.

If plaintiff fails to prove malice or want of jurisdiction he shall be non-suited.

4. The endorsement of the writ of summons in every such action shall allege either that the act was done maliciously and without reasonable and probable cause, or that it was done in a matter not within the jurisdiction of the Magistrate, otherwise the writ shall be set aside on summons; and if the plaintiff fails at the trial to prove the allegation, a verdict shall be given for the defendant.

Where act is done without jurisdiction, malice need not be alleged, but no action shall be brought until conviction is quashed.

5. (1) Any person injured by any act done by a Magistrate in a matter not within his jurisdiction, or in excess of his jurisdiction, or by any act done in any such matter under any conviction or order made or warrant issued by him, may maintain an action against the Magistrate without alleging that the act complained of was done maliciously and without any reasonable and probable cause.

(2) No such action shall be brought for anything done under the conviction or order, or for anything done under any warrant issued by the Magistrate to procure the appearance of such party and followed by a conviction or order in the same matter, until after the conviction or order has been quashed by the High Court.

- 6.** No action shall in any case be brought against any Magistrate for anything done under any warrant which has not been followed by a conviction or order, or if, being a warrant upon an information for an alleged indictable offence, a summons was issued previously thereto, and served upon such person personally, or by its being left for him with some person at his usual or last known place of abode, and he has not appeared in obedience thereto.
- No action to be brought unless there has been a conviction or if there has been a summons.
- 7.** Where a conviction or order is made by a Magistrate and a warrant of distress or of commitment is granted thereon by some other Magistrate *bona fide* and without collusion, no action shall be brought against the last-mentioned Magistrate by reason of any defect in the conviction or order, or for any want of jurisdiction in the Magistrate who made the same, but the action may be brought against the Magistrate who made the conviction or order.
- Nor against a Magistrate for warrant granted by him upon the conviction of another Magistrate.
- 8.** No action shall be brought against any Magistrate who has granted a warrant of distress against any person for enforcing the payment of any rate made, allowed, and published, by reason of any irregularity of defect in the rate, or of such person not being liable to be rated.
- Nor for granting warrant for enforcing rate.
- 9.** No action shall be brought against any Magistrate for the manner in which he has exercised any discretionary power given to him by law.
- Nor for exercise of any discretionary power.
- 10.** Where any Magistrate refuses to do any act relating to his duties as a Magistrate, the party requiring the act to be done may apply to the High Court, upon an affidavit of the facts, for a rule calling upon the Magistrate, and also the party to be affected by the act, to show cause why the act should not be done; and if, after due service of such rule, good cause is not shown against it, the Court may make it absolute, with or without costs, and the Magistrate, upon being served with such rule absolute, shall obey it, and do the act required, and no action or proceeding whatsoever shall be brought against him for having obeyed the rule and done the act so required.
- Remedy where Magistrate refuses to do his duty.

No action on warrant where conviction or order affirmed on appeal.

11. Where a warrant of distress or of commitment is granted by a Magistrate upon a conviction or order, which either before or after the granting of the warrant has been or is affirmed upon appeal, no action shall be brought against him for anything which may have been done under it, by reason of any defect in the conviction or order.

Setting aside action.

12. In all cases where in this Act it is enacted that no action shall be brought under particular circumstances, if any such action is brought, a Judge of the High Court may on the application of the defendant and on an affidavit of facts, set aside the proceedings in the action, with or without costs, as to him may seem just.

In what case plaintiff shall not recover substantial damages. [45 of 1979].

13. Where the plaintiff in any such action is entitled to recover, and he proves the levying or payment of any penalty or sum of money under any conviction or order as parcel of the damages he seeks to recover, or if he proves that he was imprisoned under the conviction or order and seeks to recover damages for the imprisonment, he is not entitled to recover the amount of the penalty or sum so levied or paid, or any sum beyond one cent as damages for the imprisonment, or any costs of suit whatsoever, if it is proved that he was guilty of the offence of which he was convicted, or that he was liable by law to pay the sum he was so ordered to pay, and that he had undergone no longer imprisonment than that assigned by law for the offence of which he was convicted, or for non-payment of the sum he was ordered to pay.