

In Re: Ramdas Vishnudas

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Court : Mumbai

Decided On : Jun-18-1924

Reported in : AIR1924Bom511; (1924)26BOMLR713

Judge : Lallubhai Shah, Kt., Acting C.J. and ;Fawcett, J.

Appeal No. : Criminal Appeal No. 219 of 1924

Appellant : In Re: Ramdas Vishnudas

Disposition : Appeal dismissed

Judgement :

The pendency of an application for sanction before a lower Court does not prevent a higher Court from granting the sanction under Section 476 A of the Criminal Procedure Code 1898.

Section 11 of the Indian Oaths Act makes the evidence given under a special oath conclusive proof only as against the person who offers to be bound by it. It does not prevent the Court from attempting to establish that a particular statement made by the deponent is false in fact and false to his knowledge.

Lallubhai Shah, Ag. C.J.

1. Two points have been urged in support of this appeal which has been preferred to this Court under Section 476-B, Criminal Procedure Code. The first point is that

as an application for sanction was made by the brother of the present appellant on July 11, 1922, which has not been disposed of, the District Court, to which that Court would be subordinate within the meaning of Section 195, Criminal Procedure Code, would not be competent to make an order under Section 476-A. It is an admitted fact, however, that the application is not rejected by that Court. It is difficult to understand how that application has remained pending so long. But it being common ground before us that that application is pending, but not rejected, we do not think that there could be any objection to the superior Court taking such action as could be taken by the Court under s 476, Criminal Procedure Code. The pendency of the application cannot mean rejection of the application within the meaning of Section 476 A.

2. The second point urged is that as the first statement which Was made by the present appellant on January 26, 1921, on special oath it cannot be shown to be false because of the provision of Section 11 of the Indian Oaths Act. That section provides that the evidence so given shall, as against the person who offered to be bound by the special oath, be conclusive proof of the matter stated. The section does not provide that it shall be conclusive proof of the matter stated; but it provides that as against the person, who offers to be bound by the special oath, it will be conclusive proof of the matter stated. Now the complaint is filed by the Court, and it is open to that Court to show, if it can, that that statement was false, and false to the knowledge of the person making it. Whether that Court will be able to establish those propositions must depend upon the evidence which will be available at the trial of the case against the appellant. We express no opinion whatever as to the merits of the complaint at this stage. But Section 11 of the Indian Oaths Act does not prevent the Court from attempting to establish that a particular statement made by the appellant was false in fact and false to his knowledge. In other words it is open to the Court to establish that by making that statement the appellant gave false evidence within the meaning of Section 193, Indian Penal Code. We, therefore, dismiss the appeal.