

In Re: Sangappa Gadigeppa

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Court : Mumbai

Decided On : Sep-30-1914

Reported in : AIR1914Bom230; (1914)16BOMLR947

Judge : Heaton and ;Shah, JJ.

Appeal No. : Criminal Application for Revision No. 228 of 1914

Appellant : In Re: Sangappa Gadigeppa

Judgement :

Heaton, J.

1. This is one of five cases in which the Collector what he considers a sanction in each case for the prosecution of certain persons for giving false evidence. The 1914 persons against whom these assumed sanctions were given appealed to the District Judge, and he held that in accordance with the terms of Clause 7 of Section 195 of the Criminal Procedure Code the appeal did lie to his Court. That view has not been contested here. The District Judge, however, also held that the writing given and signed by the Collector was not a sanction, but was a complaint, and that he had no power to interfere. Against these five orders, the applicants have come to us in revision.

2. Except in one point I am unable to understand why these documents are not to be regarded as sanctions. In terms they are most definitely sanctions. They fulfil,

so far as I can see, every single requirement of Section 195. But apparently it has been held elsewhere that a sanction presupposes an application. That appears to me to be departing outside the terms of Section 195 and in this Court we have not acted on the assumption that a Court cannot give a sanction under 3. 195 of the Criminal Procedure Code if there does not happen to be an applicant. I think, therefore, that as a matter of law the District Judge is wrong, that these are sanctions, and that the District Judge must deal with these appeals according to law on the assumption that they are sanctions.

3. But I should like to add this. Having come to the conclusion that sanctions ought to be given, I think that the Collector acted precisely as he ought to act. We have often in this Court deprecated the giving of sanctions to private persons, because we know that in certain cases they are not used as they ought to be used, but are used for the most improper purpose and in a way which brings the administration of justice into contempt. We have often advocated that sanctions, when they are given, should be given to some responsible Government servant, and, perhaps, of all, the most appropriate is the one which, in this case, was chosen by the Collector; and that is the Government Pleader.

4. The appeals must be sent back to the District Judge to be disposed of by him according to law.

Shah, J.

5. I agree. I desire to add that in these cases the Collector sanctioned the prosecution of the petitioners and that sanctions were drawn up as contemplated by Section 195, Criminal Procedure Code. I am unable to hold that the writing which purports to be a sanction under Section 195 is defective in form. In my opinion the sanction is subject to no such infirmity as is mentioned in the order of the District Judge. In any event it is quite clear that the document which purport is to be a sanction is not a complaint within the meaning of Section 195, Criminal Procedure Code. Assuming that the sanctions granted were open to any of the objections referred to by the District Judge, it would be no ground for holding that it is not a sanction. Any defect of procedure or form in granting a sanction cannot

convert the sanction into a complaint.

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