

In Re: Keshav Narayan Manolkar

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SooperKanoon Citation : sooperkanoon.com/340744

Court : Mumbai

Decided On : Sep-27-1912

Reported in : (1912)14BOMLR968; 17Ind.Cas.720

Judge : Batchelor and ;Rao, JJ.

Appeal No. : Criminal Application for Revision No. 299 of 1912

Appellant : In Re: Keshav Narayan Manolkar

Judgement :

Batchelor, J.

1. Three points have been taken by the learned Counsel who appealed to support this application in revision. The first is, that the Court below had no jurisdiction in the case, inasmuch as the present applicant was not a party or a witness in the proceeding before the lower Court. Having regard to Section 476 of the Criminal Procedure Code we are clear that no such condition is required. All that is required is that such an offence as is there referred to should be either committed before the Court or brought under its notice in the course of a judicial proceeding. That condition was satisfied in this case, and the circumstance that the present accused was neither a party nor a witness seems to us to be irrelevant under Section 476, Criminal Procedure Code. '

2. Secondly, it was complained that the procedure adopted was irregular, inasmuch as the Civil Court was not authorized to issue a warrant for the arrest of the applicant. Even if this argument were good in law, we do not think that it could benefit the present applicant at this stage of the proceedings. We think, however, that it is not good in law, and that Sub-section 2 of Section 478, Criminal Procedure Code, is ample authority for the action which the Assistant Judge took.

3. Lastly, it was urged that these criminal proceedings should be stayed inasmuch as from the judgment of the Civil Court there was pending a First Appeal which had been lodged by the Nazir. We have, however, following *In re Devji valad Bhavani* ILR (1893) 18 Bom. 581, frequently expressed our view in this Court that the mere pendency of a Civil appeal is not in itself sufficient ground for staying Criminal proceedings such as these now under notice.

4. Then Mr. Campbell asked us to consider his client's application for bail. We are, however, unwilling to substitute our jurisdiction for that of the Assistant Judge who has taken such great pains in this case. At an earlier period, of it he refused bail on grounds which then were doubtless sufficient. We think that the most that we can say on this head is that the applicant, if so advised, may renew his application to the Assistant Judge, and if he is able to show that the trial is likely to be unduly delayed or that there is any adequate ground for varying the previous order, we feel sure that the Assistant Judge will vary it. We now discharge the Rule.