

In Re: Balabhadra Narayudu

In Re: Balabhadra Narayudu

SooperKanoon Citation : sooperkanoon.com/430237

Court : Andhra Pradesh

Decided On : Jul-07-1955

Reported in : 1957CriLJ1211

Judge : Umamaheswaram, J.

Appellant : In Re: Balabhadra Narayudu

Judgement :

Umamaheswaram, J.

1. This is an appeal preferred under Section 476 of the Code of Criminal Procedure against the order of Sessions Judge, Guntur, in Criminal Miscellaneous Petition No. 131 of 1954 sanctioning prosecution of P.W. 3 in Sessions Case No. 91 of 1953. The simple question that arises for decision in the appeal is whether it is expedient in the interests of justice to sanction his prosecution.

2. The ground on which the learned judge ordered sanction to prosecute that his statement before the Sessions Court was contradictory to the statement which he made before the Committing Magistrate. What he stated before the Committing Magistrate was that the 1st accused was near the corpse at the time of the cremation. In the Court of Session he went back upon that statement. That contradiction is not very material and even assuming that the 1st accused was present at the time of cremation it would not establish the guilt of the 1st accused. I agree with Rankin, C. J. in *Keramut Ali v. Emperor* AIR 1928 Cal 862 (A), that the

mere existence of contradiction in the evidence of a witness is not sufficient for sanctioning prosecution under Section 476. The observations of Holroyd, J., in twin's Crown case, page 270, extracted in Karnini Kumar v. Emperor AIR 1929 Cal 300 (E) are also very apposite and are as follows:

Although you may believe that on one or other occasion she swore that which was not true it, is not a necessary consequence that she committed perjury ; for there are cases in which a person might very honestly and conscientiously swear to a particular fact from the best of his recollection and belief and from other circumstances at a subsequent time be convinced that he was wrong and swear to the reverse without meaning to swear falsely either time.

I agree with Suhiawnrclly, J., that the observations of Holroyd J., are very wise, and should always be kept in mind dealing with cases of this character, it is no doubt true that one of the statements made by P.W. 3 should be false. But in my view, the statement, even if false, is so immaterial that it is not expedient in the interests of justice to sanction prosecution under Section 476, Code of Criminal Procedure.

3. I. therefore allow the appeal, and set aside the order of the Sessions Judge in Criminal Miscellaneous Petition No. 131 of 1954. The complaint filed against him is hereby withdrawn.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com