

Balwant Singh Vs. Umed Singh

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Court : Allahabad

Decided On : Dec-31-1969

Reported in : (1896)ILR18All203

Judge : John Edge, Kt., C.J. and; Banerji, J.

Appellant : Balwant Singh

Respondent : Umed Singh

Judgement :

John Edge, Kt., C.J. and Banerji, J.

1. This is an application for the sanction of a prosecution of a party to an appeal in the High Court for using a forged document and for giving false evidence. The appeal was disposed of by a Full Bench of this Court on the 18th of February 1895. The application was made on the 23rd of November 1895, and to-day an affidavit, which was sworn on the 23rd of December 1895, was filed, the object of the affidavit being to account for the delay.

2. The second and third paragraphs of the application are as follows: 'That in the judgment of the said Bench delivered on the said date it was found that the suit brought by the plaintiff-respondent was a false suit, baaed on a, forged document and supported by false, oral and documentary evidence.'

That circumstances are detailed in the body of the said judgment which furnish strong prima facie ground for the belief that the promissory note, the basis of the suit, was a forged document, and that the plaintiff's books of account filed by him as evidence to support his case were fabricated.' Then follows the prayer.

3. It appears to us that there are two objections to our granting sanction. It is not intended that a Court should grant an indefinite sanction to a prosecution for perjury or for using a false document. If it was intended by the Legislature that persons who considered themselves aggrieved by the use of forged documents or by perjury should be given a free hand to prosecute for any assignments of perjury or for the use of any document which they might choose to say was forged, there would have been no necessity for the Legislature to have enacted that an order for sanction should be required. Now, so far as the alleged perjury is concerned, this application does not disclose one single assignment of perjury. It should have stated that sanction was, asked for the prosecution of the respondent for perjury committed by him on a date named in stating falsely so and so, and so and so, and so and so. That is to say, the assignments of perjury for which sanction to prosecute was asked should be distinctly stated in the application. Again, where sanction is asked to prosecute for the use of a forged document, the document should be clearly ear-marked on the face of the application. It should not be left to the Court which is asked to grant the sanction or to the Court which is to act on that sanction to find out by reference to another record what the document is in respect of which sanction is sought or given. In this case the application should have stated that the forged document, for example, was a document alleged to be a promissory note, for so much, bearing such a date, and purporting to be signed by so and so. These particulars would be necessary for an application of a similar kind in England, and where an order for sanction in this country may not only involve the liberty of the subject, but may put that subject to very great expense in defending himself, it is right, that a Court should see that the application is in form, and gives full information, so that the order for sanction drawn up upon the application may set out precisely what the document is and what the assignments of perjury are for which sanction to prosecute is given.

4. On that ground alone we would dismiss the application. Applications for sanction to a prosecution for perjury, or for the use of false documents, should be made promptly or the delay should be satisfactorily accounted for. Where there is great delay in making the Application, as in this case, a Court cannot help suspecting that the applicant is acting, not in the interests of justice, but for an indirect motive, possibly to worry, annoy and! persecute his opponent. Orders for sanction to prosecute in these cases are made, not with the object of gratifying the applicant, but of securing the due administration of justice. We dismiss this application.

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