

Sundar Lal Vs. Emperor

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Court : Allahabad

Decided On : Apr-13-1909

Reported in : 3Ind.Cas.966

Judge : Aikman, J.

Appellant : Sundar Lal

Respondent : Emperor

Judgement :

1. This is an application on behalf of one Sundar Lal to quash a sanction granted by the Judge of Agra for the prosecution of the applicant for offences punishable under Sections 193, 199, 209 and 210, Indian Penal Code. At the same time the learned Judge granted sanction for the prosecution of one Musammat Mungo under Section 205, Indian Penal Code. The facts of the case are somewhat peculiar. On the 16th of April, 1908, Musammat Janki presented a petition to the Collector of Muttra in which she alleged that it had come to her knowledge that the applicant Sundar Lal had instituted a case against her in the Court of the village Munsif of Bhartiain the Muttra District and having got one Musammat Mungo to personate her and to confess judgment obtained a decree against her, although she never in her life had been indebted to Sundar Lal. In this petition she alleged that she had applied to the village Munsif to take action against Sundar Lal and Musammat Mungo, but no action had been taken. The Collector, thereupon, under what authority it does not appear, directed the Munsif of Mahaban to hold an

enquiry into the case. After the report of the Munsif of Mahaban had been received the case came in some way before Mr. Wahi, Joint Magistrate, who being of opinion that he could not take cognizance of Musammat Janki's complaint without previous sanction forwarded the file to the District and Sessions Judge with a request that he would give sanction for the prosecution of the accused. The learned Judge in the order under revision says that he sanctions the prosecution of Mango and Sundar Lal. He does not say to whom he grants the sanction and he has overlooked the provisions of Section 195 (4) of the Code of Criminal Procedure. The first plea urged in revision is that the learned Sessions Judge of Agra had no jurisdiction to grant sanction under the circumstances of the case. As Sessions Judge he had no jurisdiction. But there is nothing to show that he acted as Sessions Judge. Under the Village Courts Act, No. III of 1892, no appeal lies from the decree of a village Munsif, although under Section 73 of the Act the District Judge may under certain circumstances review the decree of a village Munsif. As no appeal lies from the decrees of a village Munsif that Court is, under Section 195 (7) (c), Code of Criminal Procedure, deemed to be subordinate to the principal Court of original jurisdiction within the local limits of whose jurisdiction it is situate. It is clear, therefore, that under Section 195 (1) (6) the learned District Judge could grant sanction. But as has been held, before sanction is granted, there must be a formal application by some person for sanction. The sanction granted by the learned Judge is not granted to any one in particular. It could not, of course, be granted to the Magistrate who was himself inquiring into the case. On this ground I am of opinion that the sanction granted by the Judge must be revoked. At the same time after inspection of the record I am of opinion that the matter ought not to be allowed to rest here. The complainant Musaminat Janki should be instructed to apply formally to the District Judge for sanction or if she does not apply, the Collector of Muttra might instruct some one to make the necessary application. If sanction is granted, the provisions of Section 195 (4) should be followed. A suggestion was made by the Magistrate in sending the case to the Judge that sanction should be given for the prosecution of Mungo under Section 419, Indian Penal Code. The learned Judge rightly remarks that no sanction for a prosecution under that section is wanted. But the case clearly falls under Section 205 and not under Section 419 and for a prosecution under Section

205, sanction is requisite. For the above reasons, I revoke the sanction granted by the learned Judge on the 20th of February last for the prosecution of Sandar and Musammat Mungo.

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