

In Re: Palani Goundan

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SooperKanoon Citation : sooperkanoon.com/776910

Court : Chennai

Decided On : Nov-29-1920

Reported in : AIR1921Mad140; (1921)40MLJ211

Appellant : In Re: Palani Goundan

Judgement :

Ayling, J.

1. The charge in this case is under Section 82(a) of the Indian Registration Act (Act XVI of 1908) and it has been held in a recent judgment of this Court to which I was a party (In re Piramu Nadatti (1916) 33 I.C. 976 that Section 83 does not bar a prosecution by a private person for an offence under Section 82.

2. With regard to Section 195 of the Code of Criminal Procedure there is no prosecution for any of the offences specified in that section and it is unnecessary to consider whether if there were, sanction would be necessary (vide the judgment of a Full Bench of the Calcutta High Court in Gopi Nath v. Kuldip Singh I.L.R.(1883) C. 566

3. In my opinion the records should be returned and the Assistant Sessions Judge directed to proceed with the case.

Spencer, J.

4. It is quite clear to my mind, that there is no obstacle to the accused being tried for an offence under Section 82 of the Registration Act, merely because he might have been charged for an offence under Section 177, Indian Penal Code and because under Section 196 of the Code of Criminal Procedure, sanction would have been necessary before cognizance of such an offence could be taken by a Court., The two offences are distinct and the punishment for them is quite different.

5. It appears from Section 234(2) of the Code of Criminal Procedure they are not offences of the same kind. The Assistant Sessions Judge has not properly appreciated Gopi Nath v. Kuldip Singh I.L.R. (1885) C. 566 which is a good authority on this point.

6. On the other question argued before us, which is whether the sanction of the Registration Authorities is required for the present prosecution under Section 82 of the Act, I am not prepared to differ from the opinion of my learned brother and Napier, J. in *In re Piramu Nadati* (1916) 33 I.C. 976.

7. Although I recognise the fact that a different view has twice been taken by learned Judges of the Allahabad High Court sitting singly I am inclined to prefer the opinion of a Bench of this Court supported as it is by a Full Bench of the Calcutta High Court in *Gopi Nath v. Kuldip Singh* I.L.R.(1885) C. 566 and by the language Section 83 which is not prohibitory like that of Section 195 of the Code of Criminal Procedure but permissive.

8. I agree with my learned brother in this thing that there is no illegality in the commitment order and that the trial in the Sessions Court may proceed.