

In Re: Chilukuri Ramayya

In Re: Chilukuri Ramayya

SooperKanoon Citation : sooperkanoon.com/778880

Court : Chennai

Decided On : Jul-26-1932

Reported in : 140Ind.Cas.323; (1932)63MLJ670

Appellant : In Re: Chilukuri Ramayya

Judgement :

ORDER

1. The Sub-divisional Magistrate of Gudivada passed an order purporting to be under Sections 195-B and 476, Criminal Procedure Code, that the present petitioner should be prosecuted for perjury under Section 195, Indian Penal Code. He accordingly forwarded the records to the District Magistrate, Kistna, for taking action against the petitioner under the above section. It is hardly the procedure contemplated in the Code as revised in 1923 and the Sub-divisional Magistrate ought to have complained under Section 476 a point which was taken up on appeal to the District Magistrate who found that the Sub-divisional Magistrate's proceedings were practically a complaint and that the petitioner had not been in any way prejudiced. The point which is now taken in revision against the District Magistrate's order is not quite the same. It is now complained that the Sub-divisional Magistrate erred in not recording a precise finding that it was expedient in the interests of justice that an enquiry should be made into the offence. It might be possible to argue when the Sub-divisional Magistrate records in these terms 'Further I find that he perjured himself on an important fact touching the issue in question regarding possession I therefore consider etc.' that he was in effect giving

his opinion that a prosecution was expedient in the interests of justice. But considering the clear language of the Code we are not disposed to admit any argument of that sort. The Code lays down so as to leave no room for any doubt that the Court should record a finding that it is expedient in the interests of justice that an enquiry should be made and therefore Courts will be well advised always to make a record to that effect if that is their opinion; because most regrettable delays and waste of time sometimes arise by putting the superior Courts to the task of discovering whether they mean something which they have not written. We therefore allow the petition and remit these proceedings to the Sub-divisional Magistrate of Gudivada for such action as he deems necessary in the light of the above remarks. If he wishes to regularise the complaint at this stage there is no legal objection to his doing so.

2. In regard to the case-law on the subject it may be noted that our opinion is affirmed by two Judges of this Court in *Chadnvula Munuswami Naidu v. Emperor* : AIR1928 Mad783 , *In re Yemeni Satyanarayana* (1928) 28 L.W. 774 and also in *Surendra Nath Jana v. Kumeda Charan Misra* (1930) 51 C.L.J. 208. The ruling in *Namberumal Chetty v. Nainiappa Mudali* I.L.R. (1930) 54 M. 331 : 59 M.L.J. 850 was based on the special wording of the order then in question. The learned Judges there observed that the order was very detailed and comprehensive.