

In Re: Ravanappa Reddi

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Court : Chennai

Decided On : Nov-10-1931

Reported in : 136Ind.Cas.779; (1932)62MLJ735

Appellant : In Re: Ravanappa Reddi

Judgement :

Jackson, J.

1. The appellant has been sentenced to three years' rigorous imprisonment for abetting the forging of a promissory' note.
2. On the facts there seems to be no doubt that the appellant is guilty under Sections 467, 109, Indian Penal Code. The evidence of the Christian schoolmaster P.W. 9 proves that the accused asked him to write the draft of the promissory note, Ex. C, after the death of its alleged maker Krishna Reddi, obviously for the purpose of a fraudulent execution.
3. Section 467 has no necessary connection with any Court proceeding, and when the committal order came before me upon an application to have it cancelled, I declined to interfere as there was sufficient evidence to establish a prima facie case against. the accused. but now that the whole record is before us, the ' matter is not quite so simple. In the complaint Ex. J it is alleged that the accused fabricated a pro-note and induced one Vatta Goundan to file a suit against Krishna 'Reddi in the Panchayat Court and obtained a fraudulent decree. The complainant

was ignorant of all this until the execution of the decree was begun in the District Munsif's Court. 'The object of bringing about these forged and fabricated transactions is to get the house of the late Krishna Reddi.

4. This is clearly the offence under Section 193, Indian Penal Code, of intentionally fabricating false evidence for the purpose of being used in a stage of a judicial proceeding.

5. The Court may think the forgery a clearer count than the fabrication of evidence because on the facts of this case it is doubtful if there was any proceeding before the panchayat at all, but nevertheless the allegation is plainly stated in the complaint, and it is the allegation which attracts the mischief of Section 195(1) (b), Criminal Procedure Code.

6. A Court confronted with a complaint like Ex. J by a private person and not preferred under Section 476, Criminal Procedure Code, must refuse to take cognizance. It cannot even examine the complainant upon oath and then note that it is only taking cognizance of the offences not referred to in Section 195, Criminal Procedure Code; because the examination of the complainant on oath under Section 200 is after cognizance has been taken. But nothing of that sort was attempted in this case. The Court recorded a short sworn statement, and evidently took cognizance of every offence alleged in the written complaint.

7. That effect of this is that the Court proceeded upon no legal complaint at all; which is much more than a mere irregularity in the complaint. Therefore the error cannot be corrected under Section 537, Criminal Procedure Code, nor has Section 532 any relevancy to the matter; for that only validates commitments legal in themselves but made by a Magistrate not empowered to commit.

8. In these circumstances the conviction must be set aside as being without jurisdiction. The bail is released.

Curgenvén, J.

9. Section 195(1)(b) of the Code forbids a Court to take cognizance of an offence under Section 193, Indian Penal Code, when it is alleged to have been committed in, or in relation to, any proceeding in any Court, except upon the complaint of that Court. Such an offence so committed is undoubtedly alleged in the complaint in the present case, and indeed the section of the Penal Code is quoted. The Court was precluded from taking cognizance of that offence, the complaint being a private one. The conviction was actually of abetment of forgery of a valuable security, under Sections 467, 109, Indian Penal Code, but in *Raianna Muthirian v. Vengu Aiyar* (1928) 56 M.L.J. 208. I have already given my reasons for holding that, this being only another way of dealing with what was in effect the same offence,--fabricating false evidence--it is not open to a Court to permit the provisions of Section 195, Criminal Procedure Code, to be evaded in this manner. I agree therefore that upon this ground the conviction must be set aside, the proceedings being without jurisdiction.

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