

**Suppa Tevan and ors. Vs. Emperor**

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**SooperKanoon Citation :** [sooperkanoon.com/782089](http://sooperkanoon.com/782089)

**Court :** Chennai

**Decided On :** Jul-19-1905

**Reported in :** (1905)ILR29Mad89

**Judge :** Boddam and; Moore, JJ.

**Appellant :** Suppa Tevan and ors.

**Respondent :** Emperor

**Judgement :**

1. The first ground of appeal is that the Sub-Magistrate of Uthamapalayan when taking down statements under Section 104, Criminal Procedure Code, was not authorized to administer an oath to the persons examined by him. Following the decision in Queen-Empress v. Alagu Kone I.L.R. 16 Mad. 421, we hold that he was so entitled. The Sub-Magistrate is a Court and when he took down statements under this section he was acting in discharge of a duty imposed on him by law and was consequently under Section 4, Act X of 1873, authorized to administer an oath. The appellants were persons to whom an oath might be administered, because they were persons who could lawfully be examined by the Sub-Magistrate under Section 164, Criminal Procedure Code (vide Section 5, Oaths Act). It is further urged that the conviction of the appellants under Section 193 of the Penal Code was not legal. In the face of the provisions of the explanation attached to that section we cannot accept this contention. An investigation under Chapter XIV of the Criminal Procedure Code is a stage of a judicial proceeding

and therefore when the appellants made on oath statements which they knew to be false before the Magistrate conducting that investigation they gave false evidence (vide illustration appended to explanation 2) and committed an offence under Section 193, Penal Code.

2. On the merits we are satisfied that the appellants have been rightly convicted the sentences are not too severe. These appeals are dismissed.

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