

Queen-empress Vs. Samiappa and ors.

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Court : Chennai

Decided On : Sep-09-1891

Reported in : (1892)ILR15Mad63

Judge : Muttusami Ayyar and ;Parker, JJ.

Appellant : Queen-empress

Respondent : Samiappa and ors.

Judgement :

1. In Calendar Case No. 2 of 1889 on the file of the District Magistrate of Bellary, one Murtinjayalu, a classifier in the Revenue Settlement Department, was convicted of an attempt to receive a bribe from a body of raiyats at the rate of four annas an acre of their holdings and was sentenced to two years' rigorous imprisonment. In April last he complained to the District Magistrate against ten raiyats upon whose evidence he was convicted, and charged them with having conspired to bribe him. The District Magistrate transferred the complaint for disposal to the Deputy Magistrate, who, after examining the complainant, issued process. In his examination Murtinjayalu denied that he attempted to take a bribe, whilst he stated that the accused admitted having conspired to bribe him in the evidence which they gave in Calendar Case No. 2 of 1889. Seeing that the complaint was in its nature vindictive, the District Magistrate asked the High Court to interfere in revision. In Queen-Empress v. Sunnappa Criminal Revision Case No. 267 of 1890, unreported a divisional bench of this Court considered that there

was nothing illegal on the part of the Divisional Magistrate in entertaining the complaint and issuing process, and that it was premature for them as the case was sub judice to express any opinion on the other questions discussed by the District Magistrate in his letter of reference. The Deputy Magistrate then tried the accused, discharged the fifth, seventh, eighth and ninth, convicted the first, second, third, fourth, sixth and tenth accused under Sections 116 and 161 Indian Penal Code, and sentenced the third and fourth to two months' simple imprisonment and the others to a fine of Rs. 25 each. On appeal the Sessions Judge acquitted the third and fourth accused. Both the District Magistrate and the Judge agree in thinking that the strength of the case for the prosecution depends mainly on the question whether the self-incriminating depositions given by the accused are receivable in evidence. The District Magistrate considers that they are not admissible under the proviso of Section 132

[Section 132:--A witness shall not be excused from answering

Witness not excused any question as to any matter relevant to the matter in issue in

from answering on ground any suit or in any civil or criminal proceeding, upon the

that answer will crimi- ground that the answer to such question will criminate, or may

nate. tend, directly or indirectly, to criminate such witness, or that

it will expose or tend, directly or indirectly, to expose such

witness to a penalty or forfeit of any kind.

Provided that no such answer, which a witness shall be compelled to give, shall subject

him to any arrest or prosecution, or be proved against him in

Proviso. any criminal proceeding, except a prosecution, for giving false

evidence by such answer.]

I.L.R. 3 Mad. 271

I.L.R. 11 Mad. 477

I.L.R. 15 Cal. 264

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