

**In Re: Marwadi Ganesh Mull**

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**SooperKanoon Citation :** [sooperkanoon.com/788461](http://sooperkanoon.com/788461)

**Court :** Chennai

**Decided On :** Apr-23-1931

**Reported in :** (1931)61MLJ914

**Appellant :** In Re: Marwadi Ganesh Mull

**Judgement :**

ORDER

**Jackson, J.**

1. This Court would not have called up this case except that it involves an interesting point of law; because the petitioner confined his appeal below to a plea *ad miseriam cordiam*, and a party must obviously work out all his remedies in the properly constituted Courts below before he comes up for revision.

2. The point of law is whether when a person makes one statement in the Committing Court and contradicts it in the Sessions Court, the Sessions Judge can complain in the alternative that one or other of the statements must be false. If the statement in the Sessions Court is true, can the Sessions Judge complain of the statement in the Committing Court? He can only do so if the latter statement has been committed in relation to the sessions trial. It has been held in *Calcutta in Nazir Ahmed v. Emperor (1926) 100 I.C. 708* that if a person makes a false charge in a police station which eventuates in a trial, the false charge is in relation to the trial. In the same way the false statement at the committal stage which eventuates

in a trial is in relation to the trial. The learned Judges in Rami Reddi v. Public Prosecutor of Kurnoo : AIR1915 Mad508 were considering subordinacy and not the phrase 'in relation to.'

3. In these circumstances it cannot be said that the Lower Courts erred in law. But by way of superabundant caution in these alternative cases it is well to have complaints from both Courts. On the merits there is no reason to interfere. The petition is dismissed.

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