

Queen-empress Vs. Samavier

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Court : Chennai

Decided On : Mar-14-1893

Reported in : (1893)ILR16Mad468

Judge : Arthur J.H. Collins, Kt., C.J. and ;Parker, J.

Appellant : Queen-empress

Respondent : Samavier

Judgement :

1. It is not now contested that the Board of Revenue is the authority that has been empowered by the Local Government to grant the requisite sanction under Section 197, Criminal Procedure Code, and we agree with the Acting Sessions Judge that the Resolution of the Board, dated 24th August 1892, is not a legal sanction.

2. The sanction required under Section 197, Criminal Procedure Code, must be granted with reference to some specific offence with which the accused is charged in his capacity as a public servant, and the intention of the legislature clearly was that the authority empowered to grant the sanction should take the responsibility of deciding there were reasonable grounds for prosecuting such public servant for such offence.

3. In the Resolution of 24th August 1892 the Board does not sanction the prosecution of the accused for any offence designated by itself, but merely delegates to the Collector the power of selecting, out of several, such charges as

he thinks likely to stand investigation.

4. The Board has no legal power so to delegate its discretion, and irregularity in a sanction granted under Section 197, Criminal Procedure Code, is not cured by the provisions of Section 537.

5. The omission to re-enact in Section 197 the permission given in Section 195 to grant a sanction in general terms--as also the exclusion of a sanction (irregularly) granted under Section 197 from the operation of Section 537--point to a deliberate intention on the part of the legislature to throw upon the authority empowered to grant the sanction, the duty of designating the offence for which leave to prosecute is given, and this duty cannot be delegated.

6. On the ground that no legal sanction has been given we must quash the commitment under Section 215, Criminal Procedure Code.

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