

**In Re: Kotha Achayya Setti**

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**Court :** Chennai

**Decided On :** Jul-23-1937

**Reported in :** AIR1937Mad808; (1937)2MLJ435

**Appellant :** In Re: Kotha Achayya Setti

**Judgement :**

**King, J.**

1. The petitioner in this case sent a petition to the District Superintendent of Police, Anantapur, in January, 1936, alleging that the Sub-Inspector of Police, Gooty, had obtained certain jewels from him in the preceding June, and had refused to return them when requested to do so. He accordingly asked that the District Superintendent of Police should give orders that the jewels should be soon returned to him. It is the case for the prosecution that this petition contained allegations which were false and that the jewels had been returned before the petition was sent and the petitioner was convicted under Section 47 of the Madras District Police Act. He of course denied at the trial that the statements in his petition were false but it was found both by the trial Court and by the appellate Court that those statements were false and this finding of fact cannot now be further challenged.

2. It is however argued before me that Section 47 does not apply to the petitioner's action. All that the petitioner wanted to do, it is urged, was to bring some kind of

departmental punishment upon the Sub-Inspector and he had no intention of compelling him to stand his trial for any criminal offence. Rulings have been cited before me both of this Court and of the Calcutta High Court (Rayan Kutti v. Emperor I.L.R. (1903) Mad. 640 and Abdul Hakim Khan Chaudhuri v. Emperor I.L.R. (1931) Gal. 334) which deal with the interpretation of Section 211, Indian Penal Code and which hold that before a man can be found guilty of having made a false charge against another person under Section 211, it must be established that his intention in bringing the false information was that criminal proceedings should be instituted. It is argued before me that the same principle ought to be applied to Section 47 of the District Police Act. I am unable to accept this argument. It is no doubt asserted that the language of Section 47 and the language of Section 211 are similar. But except that the word 'charge' appears both in Section 47 and in Section 211 there is no similarity at all. Section 211 provides for two offences both of which are equally punishable. One is the actual institution of criminal proceedings with a certain intent and the other is a false charge against a person of having committed an offence knowing that there is no just or lawful ground for such a charge. It is clear therefore that the charge referred to in Section 211 must be a charge of the same nature as the complaint and the actual institution of criminal proceedings dealt with by the first clause in that section. And further, the reference to the specific allegation that the person charged had committed an offence is an indication that the charge must be with the intention of bringing him to trial in a criminal proceeding. In Section 47 there is no reference to any criminal proceeding or any Court. The language simply is 'shall maliciously and without probable cause prefer any false or frivolous charge against any Police Officer'.

3. There are minor differences also which may be incidentally referred to, namely, the very much greater severity with which an offence under Section 211 is punished, the maximum being two years in that case and only three months in Section 47, and the fact that in Section 47 the institution of a false or frivolous charge is coupled not with any offence connected with legal proceedings but with the assaulting or resisting a Police Officer in the execution of his duty.

4. I am quite unable therefore to hold that there is any such identity of meaning between these two sections with regard to the word 'charge' as would justify me in applying the rulings cited before me to a case under Section 47 of the Madras District Police Act. I therefore hold that the conviction in this case is vitiated by no error of law and must be upheld. The Revision Petition is accordingly dismissed.

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