

In Re: Katari Veeranna

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Court : Chennai

Decided On : Jul-14-1916

Reported in : 35Ind.Cas.820

Judge : Seshagiri Aiyar, J.

Appellant : In Re: Katari Veeranna

Judgement :

ORDER

Seshagiri Aiyar, J.

1. I have serious doubts whether the Magistrate has jurisdiction to send a person, who has not been a party to any proceedings before him and who has not been examined as a witness in the case, to the nearest Magistrate under Section 476, Criminal Procedure Code. But apart from that, there are serious objections to the maintainability of his order. In the first place as regards the direction to enquire into the offence under Section 161, Indian Penal Code, it is clear, as pointed out by Dr. Swaminathan, that that section is not one of those mentioned in Section 195, Criminal Procedure Code. The learned Public Prosecutor does not press this portion of the case. Then as regards the prosecution under Section 196, Indian Penal Code, it is clear from a reading of that section that there must be some evidence in existence which the party is either using or attempting to use. The evidence in this case taken at its best shows that the accused has been

attempting to get from the Medical Officer a certificate which maybe used on a subsequent occasion. The certificate was never given. Under those circumstances no evidence was in existence which could have been utilised by the accused for improper purposes. I, therefore, think that the order directing an enquiry under Section 476 with reference to these two references was passed without jurisdiction. I set aside the order and all the proceedings taken subsequent' to the passing of the order.

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