

In Re: Appu Atla

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Court : Chennai

Decided On : Nov-15-1915

Reported in : AIR1916Mad1007; 31Ind.Cas.643

Judge : William Ayling and ;Abdur Rahim, JJ.

Appellant : In Re: Appu Atla

Judgement :

ORDER

Abdur Rahim, J.

1. In this case, the question is whether the Court of the Sub-Magistrate of Bantwal which granted sanction for prosecution was within the meaning of Section 195, Indian Penal Code, the same Court before which one of the statements with reference to which the petitioner has been prosecuted, was made. It appears that, by a notification in the Fort St. George Gazette, dated 10th September 1910, the office of the Deputy Tahsildar at Bantwal was abolished. That means that there was no Sub-Magistrate at Bantwal as a result of the notification. Then, there was certain shuffling of the jurisdiction of the villages covered by the original Bantwal Court. We need not go into that.

2. The next fact which is of relevance is that on the 15th June 1912, the Bantwal Court was restored with some slight modification, that is to say, its territorial jurisdiction was somewhat curtailed. The Deputy Tahsildar was vested with 3rd

class powers on 2nd June 1912. It appears, therefore, that there was an interval of two years during which time, there was no Sub-Magistrate's Court at Bantwal at all. The old Sub-Magistrate's Court ceased to exist, and if it was revived two years afterwards, it is difficult to say that there was any such continuity as would enable, us to hold that the Court that was re-constituted in 1912, was the same as of 1910.

I, therefore, hold that the sanction granted was without jurisdiction. The order of the Sessions Judge directing re-trial, is set aside.

Ayling, J.

3. The point is not free from difficulty, but I am inclined to agree with the view taken by my learned brother.

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