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Public Prosecutor Vs. Mari Mudali and ors.

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Court : Chennai

Decided On : Sep-04-1923

Reported in : AIR1924Mad730

Appellant : Public Prosecutor

Respondent : Mari Mudali and ors.

Judgement :

Krishnan, J.

1. This is an appeal by the Government against the acquittal of the accused of an offence, under Section 245, Criminal Procedure Code by the Sub-Magistrate of Perundurai. The acquittal is based on the ground that no sanction had been produced under Section 195, Criminal Procedure Code, from the District Munsif, the complainant being the Village Munsif whose superior is the District Munsif. The complaint that he brought forward against the accused was for an offence under Section 183, Indian Penal Code. The Magistrate overlooked the fact that under Section 195, Criminal Procedure Code, sanction is not necessary, when as here the public servant against whom the offence has been committed is himself the complainant. In such cases as that, no sanction is necessary at all, under Section 195 Sub-section (1) Clause (a).

2. An argument has been put forward by the learned Vakil for the accused, with reference to Section 1 of the Criminal Procedure Code, That Section says inter

alia that nothing contained in the Criminal Procedure Code shall apply to heads of villages in the Presidency of Fort St. George. This is sought to be read, as meaning that the Village Magistrates could not complain or be tried under the Code, because this Section excludes the applicability of the Code to heads of villages. Obviously this is not the meaning of the provision at all. It simply means that in his official capacity, as Village Magistrate, that is in the proceedings he takes as village Magistrate, he is not governed by the Criminal Procedure Code. This has nothing to do with his coming forward in any criminal case as a complainant, as in this case he has done.

3. The order of acquittal must be set aside and case sent back to the 2nd Class Magistrate, Perundurai, for disposal according to law.

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