

Abdul Gani Vs. Emperor

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Court : Kolkata

Decided On : Jan-26-1915

Reported in : 30Ind.Cas.441

Judge : Fletcher and; Beachcroft, JJ.

Appellant : Abdul Gani

Respondent : Emperor

Judgement :

1. This is a Rule calling upon the District Magistrate to show cause why the proceedings should not be quashed on the ground that there was no such sanction as was requisite under Section 195, Clause (c), of the Code of Criminal Procedure. The accused presented before the Registrar a certain document for registration. The complainant denied the execution of the document, but the Registrar directed it to be registered. Thereupon a civil suit was instituted by the complainant before the Munsif to have it declared that the document was a forgery and the Munsif declared it to be a forgery. A complaint was then presented before the learned Sub-Divisional Officer under Sections, amongst others, 467, 471, Indian Penal Code, and the Magistrate issued process under Section 467, Indian Penal Code. The present petitioner, that is the accused, thereupon applied for and obtained the present Rule. The point that has been argued in this case is solely as to whether sanction is required for prosecution on a charge under Section 467, Indian Penal Code. The point, so far as we are concerned, is covered by the

decision of this Court in the case of *Teni Shah v. Bolald Shah* 5 Ind. Cas. 879 : 14 C.W.N. 479 : 11 Cr.L.J. 280. It is not necessary for us to state whether we concur in that decision or not because, in our view, the Magistrate could and can proceed under Section 471, Indian Penal Code, without obtaining the sanction of the Munsif. The punishment that the Court can inflict for an offence under Section 471, Indian Penal Code, if it is proved, is the same as that under Section 467, Indian Penal Code. It has been decided by the High Court at Bombay in the case of *Noor Mahomed Cassum v. Kaikhosru Maneckjee* 4 Bom. L.R. 268 that where an offence punishable under Section 471, Indian Penal Code, is made out in a complaint, the use complained of being prior in date to the use of the document in question in evidence in a Civil Court, the sanction of such Court is not necessary under Section 195(1)(c). Code of the Criminal Procedure, before a Criminal Court can take cognizance of such offence. The decision seems to us to be correct and founded on good sense, namely, that sanction of the Civil Court is not necessary in the case of an offence that was committed by a prior use of the forged document outside the Court. If the story as told by the complainant in the present case be true, namely, that the forged document was used before the Registrar, then in the case of a prosecution for that offence, namely, for the use before the Registrar sanction of the Munsif would not be necessary. But so far as the proceedings founded on the offence under Section 467, Indian Penal Code, are concerned, having regard to the decision of *Teni Shah v. Bolahi Shah* 5 Ind. Cas. 879 : 14 C.W.N. 479 : 11 Cr.L.J. 280 referred to above, they cannot proceed without the previous sanction of the Munsif. The present Rule must, therefore, be made absolute to the extent we have mentioned.