

(1922) 12 MAD CK 0067
In the Madras High Court

A.R.R.M.N. Narayanan Chettiar

APPELLANT

Vs

Kadiraya Goundan and Others

RESPONDENT

Date of Decision : 21-12-1922

Acts Referred:

Citation : AIR 1923 Mad 351 : 72 Ind. Cas. 337 : (1923) 17 LW 311 : (1923) 44 MLJ 320

Hon'ble Judges : Ramesam, J; Oldfield, J

Bench : Division Bench

Judgement

1. This is an application for the grant of a sanction, which was originally granted by the Subordinate Judge, but was revoked by the District Judge.
2. The first question raised is whether the District Judge had jurisdiction to pass his order of revocation. That question must be answered with reference to the terms of Section 195(7)(a) of the Criminal Procedure Code. It is argued that this provision is not applicable or, if it is applicable, that the only Court competent to revoke the Sub-Judge's sanction was the High Court.
3. That argument is based on the consideration that the Subordinate Judge's sanction was itself given in the exercise of his Appellate Jurisdiction, because the matter had arisen in proceedings before the District Munsif, who had in the first instance refused sanction. We cannot see how with reference to the terms of Section 195(7)(a) the nature of the sanction proceedings is material, the only question under that provision being of the Court, to which appeals generally lie. It is then immaterial that appeals against appellate orders would lie from the Sub-Court to the High Court, and this is consistent with *Rapaka Viyyanna v. Parakala Bajamma* 19 Cr.L.J. 264. It is a further objection to this argument that proceedings u/s 195 are not appellate proceedings, though they may in some respects resemble them. For at each stage they are described as constituted by the grant or revocation of the sanction which some inferior authority has refused or has granted, not with direct reference to the setting aside of that inferior authority's order. We have no doubt that appeals from a Sub-Court must be

regarded as ordinarily lying to the District Court and not to the High Court, because with reference to Section 195(7)(a) appeals actually the from the Sub-Court to both those Courts and of the two the District Court is the Court of inferior jurisdiction. In these circumstances we held that the District Judge's order was passed with jurisdiction.

4. Turning to the merits, we find that the sanction is asked for in respect of an occurrence on 23rd December 1919. No doubt that occurrence, as it is alleged, constitute a grave obstruction to the execution of a legal process. But we find that no application was made for sanction by the present petitioner for over 8 months after it. His explanation is that for six months of that period he did nothing, because the Police Sub-Inspector who was also concerned, had obtained sanction and he expected him to prosecute. We do not think that a sufficient explanation. For the petitioner could easily have ascertained whether the Sub-Inspector was going to prosecute and could have himself applied to the Court. For the remaining two months delay, no particular explanation has been offered; and the Subordinate Judge in granting sanction observed with regard to it only that such delays were usual. We do not think that indulgence was justified on that ground. In these circumstances, no reason for dissent from the lower Court's order has been shown, and the petition must be dismissed.