
(1916) 08 BOM CK 0022
In the Bombay High Court

Krishna Kerring and Co. and In Re: Jasraj Krishna	APPELLANT
Vs	
J.R. Miller	RESPONDENT

Date of Decision : 24-08-1916

Acts Referred:

Criminal Procedure Code, 1898 (CrPC) — Section 195(6)

Citation : (1917) ILR (Bom) 631

Hon'ble Judges : Stanley Batchelor, J;Heaton, J

Bench : Division Bench

Judgement

Stanley Batchelor, Kt., Ag. C.J.

1. This is an application to extend the time for the prosecution of the appellant in respect of an offence of giving false evidence said to have been committed during the hearing of a suit before Mr. Justice Beaman. Sanction was granted u/s 195 of the Criminal Procedure Code on the 6th December 1915, and by virtue of Sub-section (6) of that section, the sanction could not remain in force for more than six months from the date on which it was given. Consequently the period of the currency of the sanction has expired several months ago. It is, I think, clear that if we have the power now to extend the time, we ought to extend it, seeing that the responsibility for the delay which has occurred does not rest with the present respondent, but with the appellant himself. But it is contended that, u/s 195, it is not competent to this Court to make an order extending the period, when in fact the six months' time has elapsed. When that time has elapsed, it is said, there is nothing to extend, and support for this contention is found in the observations of the Calcutta High Court in the case of Kali Kinkar Sett v. Dinobandhu Nandy (1905) 32 Cal. 379. Those observations were, however, admittedly obiter, and the contrary view appears to have been accepted by the Madras High Court: see the decision in Karuppanna Servagaran v. Sinna Gounden (1902) 26 Mad. 480; see also a case reported in 18 M.L.J. 16 (Notes of recent cases). I am conscious of the weight of Mr. Strangman's argument that the words of Section 195 of the Criminal Procedure Code may be contrasted, to

his advantage, with the words of Section 12 of the Arbitration Act (IX of 1899), and paragraph 8 of the Second Schedule of the Code of Civil Procedure. In these two latter provisions power is given in express terms to extend the original period at any time even after the lapse of that period. In the Criminal Procedure Code it must be admitted that the power is not so expressly conferred, and the words are susceptible of the narrower construction for which Mr. Strangman presses. At the same time, as it seems to me, there is nothing in the words which requires that construction, and they are equally patient of the more liberal reading. I am in favour of the more liberal reading, because, in my opinion, the contrary view, not being imposed by the words of the Act, would tie the hands of the Court very inconveniently, would produce inequality and even caprice in actual results, and would lead to graver inconveniences in practice than it is likely that the Legislature could have contemplated. It is not denied that if the application to extend the time, though made during the currency of the sanction, were heard and decided after the expiry of the original period, the Court would have power to grant it; and I do not think that the Court is necessarily deprived of jurisdiction merely because the six months had expired before the application was made. I think, therefore, that we have the power now to extend the time *mine pro tune*, and I would extend it by a further period of one fortnight from this date. Notice absolute. No order as to costs.

Heaton, J.

2. I agree.