
(1901) 07 CAL CK 0015
In the Calcutta High Court

Methuram Dass

APPELLANT

Vs

Jagannath Dass

RESPONDENT

Date of Decision : 26-07-1901

Acts Referred:

Citation : (1901) ILR (Cal) 794

Hon'ble Judges : Hill, J;Harington, J

Bench : Division Bench

Judgement

1. The sole question in this appeal is whether the defendant who, in answer to a question put to him by a police officer conducting an investigation under the provisions of Act X of 1882, stated that the plaintiff was concerned in the commission of the crime then being investigated, can be made liable in an action for damages for words so spoken.

2. The learned Additional Subordinate Judge has held, on the authority of Queen-Empress v. Govinda Pillai I. L. R. (1892) Mad. 235 that no action would, under such circumstances, lie, and, we think, that his decision is correct. A person, as was pointed out in that case, examined by a police officer conducting an investigation under Act X of 1882, was bound by Section. 161 of the Act to answer truly all questions put to him, and on that ground the learned Judges considered that he was entitled to the same protection as that extended to witnesses in a Court of Justice. This view derives support from the oases of Goffin v. Donnelly I. L. R. (1883) All. 425 and Dawkins v. Lord Rokeby (1881) L.R. 6 Q.B.D. 307 In the former the Court of Queen's Bench held that a person giving evidence before a select committee of the House of Commons appointed to enquire into the circumstances attending the suspension of the certificate of the plaintiff, who was a school master, was absolutely privileged in respect of the evidence he gave. "For the purposes of such enquiries" it was said, "committees are appointed and require the attendance of witnesses. If persons so required to attend did not attend they would be committed for contempt. If they do attend they must answer the questions asked of them and may be examined on oath.

The evidence given is, therefore, as much given under compulsion as in the case of a Court of law." So in *Dawkins v. Lord Bokeby* (1875) L.R. 7 H.L. 744 it was held that statements made by a witness before a Military Court of Inquiry were privileged in the same way as evidence given in a Court of Justice. Such a Court is not, however, a judicial body, nor can it administer an oath, but officers of the army are compellable to attend such Courts, if required to do so by competent military authority and to give evidence, and it was upon this ground that the answer of the Judges to the question proposed to them by the Lord Chancellor and adopted by the House of Lords proceeded. The Lord Chief Baron, in answering the question proposed, after referring to the immunity enjoyed by witnesses in Courts of Justice in respect of statements by them disparaging to another and to the reason for the rule, went on to say: "In the present case it appears in the bill of exceptions that the words and writing complained of were published by a military man bound to appear and give testimony before a Court of Inquiry, all that he said and wrote had reference to that enquiry: and we can see no reason why public policy should not equally prevent an action being brought against such a witness as against one giving evidence in an ordinary Court of Justice." And the Lord Chancellor in summarising the circumstances of the case said: "Your Lordships have it in the bill of exceptions that it was an enquiry connected with the discipline of the army; it was an enquiry warranted by the Queen's Regulations and Orders for the army, it was called for by the General Commanding-in-Chief in pursuance of those regulations; and the defendant in the action was called upon that enquiry as a witness, as a person who was required to make statements relevant to the enquiry which was then being conducted, and it was in the course of that enquiry that these statements were made."

3. In the present case the investigation was required by law; it was conducted under the provisions of the law, it was ancillary to the administration of justice. The defendant was bound by law to answer all questions put to him by the police officer conducting the investigation, and was punishable if he answered untruly and what was said by him had reference to the matter under investigation. Virtually the only distinction between his position and that of an ordinary witness arises from the fact that his statement was not made in a Court of justice, and we see no reason accordingly, to use the language of the Lord Chief Baron cited above, why public policy should not equally prevent an action being brought against him as against a witness in an ordinary Court of Justice.

4. We think accordingly that the suit was not maintainable, and that the appeal fails and must be dismissed with costs.