
(1923) 08 MAD CK 0045
In the Madras High Court

Pallikudathan alias Samudi Goundan

APPELLANT

Vs

Budda Goundan

RESPONDENT

Date of Decision : 07-08-1923

Acts Referred:

Citation : (1924) ILR (Mad) 229

Hon'ble Judges : Wallace, J; Krishnan, J

Bench : Division Bench

Judgement

1. This is an application to this Court for the grant of sanction to prosecute the counter-petitioner under Sections 182 and 193, Indian Penal Code.

Originally the application was made to the Sub-Magistrate under Sections 193 and 211, Indian Penal Code, but the Sub-Magistrate finding that no

charge was made against the counter-petitioner by the petitioner converted the application into one u/s 182, Indian Penal Code, and proceeded to

grant sanction under that section and Section 193 for giving false evidence before him. On appeal to the District Magistrate the order granting

sanction under both the sections of the Indian Penal Code was revoked. The petitioner comes here and claims that we should give that sanction

now.

2. Taking Section 182 first it is quite clear that the Sub-Magistrate had no authority whatever to grant any sanction in this matter because he was

not the public servant to whom the information concerned, was given. It was given to the Village Magistrate. It is contended before us that the

Sub-Magistrate should be taken as a superior authority to the Village Magistrate u/s 195, Criminal Procedure Code, and the ruling in *The Queen*

v. *Periannan* ILR (1882) Mad. 241 is relied on for the purpose; but we are unable

to concur with that ruling. It was not followed by this Court in

the case in Venkatasami v. Narasimliayya (1908) 4 M.L.T. 214. The learned pleader for the petitioner was not able to explain how the Village

Magistrate could be taken to be subject to the authority of the Sub-Magistrate as a public servant.

3. It was also argued that we cannot go into the question ourselves, because the District Magistrate who revoked the sanction did so in his

capacity as the executive head of the district and that he is not subject, in his capacity as such public servant, to our control. But it is unnecessary

to decide this point, for we think that no sanction could properly have been given by the Sub-Magistrate and the revocation of that sanction u/s

182, Indian Penal Code, is therefore right. The application so far as it refers to Section 193 should have been made to the Sessions Judge and not

to us because that sanction was granted by the Sub-Magistrate as a Court and the appeal lay u/s 195 to the District Magistrate and from his order

the application should have been made to the Sessions Judge. Such an application not having been made, we decline to interfere in the matter. If so

advised the petitioner may make his application to the Sessions Judge.

4. The petition is therefore dismissed.