
(1923) 08 MAD CK 0031
In the Madras High Court

Pallikudathan alias Samudi Goundan

APPELLANT

Vs

Buddu Goundan

RESPONDENT

Date of Decision : 07-08-1923

Acts Referred:

Penal Code, 1860 (IPC) — Section 182, 211

Citation : (1923) 45 MLJ 553

Judgement

1. This is an application to this Court for grant of sanction to prosecute the counter-petitioner under Sections 182 I.P.C. Originally the application

was made to the Sub-Magistrate under Sections 193 and 211, I.P.C. 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, I.P.C. 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 I.P.C. 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 u/s 195, Cr.P.C. and the ruling in *The Queen v. Periannan* ILR 4 M. 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. Narasimhayya* 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, I.P.C. 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.