

(1923) 08 MAD CK 0076
In the Madras High Court

Pallikuduthan alias Samudi Goundan

APPELLANT

Vs

Buddu Goundan

RESPONDENT

Date of Decision : 07-08-1923

Acts Referred:

Criminal Procedure Code, 1898 (CrPC) — Section 195
Penal Code, 1860 (IPC) — Section 182, 193

Citation : (1924) ILR (Mad) 229 : 76 Ind. Cas. 647

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 On appeal to the District Magistrate, the order granting sanction under both the sections of the Indian Penal Code was revoked.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, 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 Queen v. Naraina 4 M. 241 : 1 Weir 117 : 2 Weir 456 : 1 Ind. Dec. 1004 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. Narasimayya 4 M.L.T. 214 : 18 M.L.J. 584 : 8 Cri. L.J. 400. 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.