
(1948) 04 MAD CK 0009
In the Madras High Court

R. Ramachandra Rao

APPELLANT

Vs

T.G. Narayana Rao

RESPONDENT

Date of Decision : 01-04-1948

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 109(c)

Citation : (1948) 61 LW 508 : (1948) 2 MLJ 109

Hon'ble Judges : P.V. Rajamannar, O.C.J.

Bench : Division Bench

Judgement

P.V. Rajamannar, Officiating C.J.

1. This is an application u/s 109(c) and section no of the CPC for leave to appeal to the Federal Court of India against the judgment and decree of

this Court in Appeal No. 439 of 1946 which confirmed the judgment and decree of the Subordinate Judge of Trichinoopoly in O.S. No. 149 of

1945. The ground on which the petitioner seeks leave to appeal is that though the judgment of this Court affirmed the judgment of the lower Court,

it raises a substantial question of law which is also a question of considerable general importance. The latter ground, however, was not pressed

before us. It is therefore only necessary to find out if the appeal does involve a substantial question of law. That question, according to the

petitioner, arises in respect of the admissibility of the statement of one Ranga Ayyar made in a Criminal case, C.C. No. 30 of 1883 on the file of

the Special Second Class Magistrate of Trichinopoly. Ex. P. 2 purports to be a true copy of the proceedings in that case. The objections as

regards the admissibility of Ex. P. 2 were mainly twofold and based on Section 80 of the Indian Evidence Act. It was contended firstly that Ex. P.

2 really consists of two documents and that the document which contains the statement of Ranga Ayyar does not purport to be a record or

memorandum of evidence given by a witness in a judicial proceeding; and secondly it was contended that it does not purport to be signed by any

Judge or Magistrate. Both the objections were overruled by this Court, because it was held that the alleged two parts of the document, Ex. P. 2

together formed the proceedings of the Second Class Magistrate in C.C. No. 30 of 1883 and it was found that the signature found at the end of

the deposition part was the signature of the person who, according to the order part of Ex. P. 2 was the Second Class Magistrate who disposed of

the particular case. It is clear that the objections raised by the petitioner who was the appellant were overruled by findings of fact. Those findings

may be right or may be wrong, but they are certainly not findings on questions of law.

2. Objection was also taken to the admissibility of the statement because according to the appellant, the conditions laid down in Section 32(5) of

the Evidence Act were not satisfied. It was contended (1) that there was no statement of Ranga Ayyar within the meaning of that enactment, and

(2) that the statement if any, was not made before the question in dispute was raised. The first part of the contention was based on the fact that the

statement was contained in the memorandum of evidence made by the Magistrate, and it was argued that the statement was really that of the

Magistrate who must be deemed to have stated that the witness made a particular statement. This Court did not accept that contention, and in our

opinion, this contention does not raise a substantial question of law. Obviously, every question of law is not substantial. "Substantial" in the context

has been held to mean substantial as between the parties and not necessarily of general importance to the public; but that explanation does not

make it any the less essential that the question should be substantial, that is to say, it must have some substance in it. We do not consider that in this

view it could be said that a substantial question is involved in the contention just mentioned. As regards the other part of the contention, namely,

that the statement was not made before the question in dispute was raised, it was found as a fact that the question in dispute in the present case,

namely, as to whether Anantalakshmi Ammal was one of the daughters of Thammanna Ayyar did not arise before the statement was made.

3. The learned advocate for the petitioner relied upon the ruling of a Division Bench of this Court in *Rajah Mahadeva Royal Y.B. Vs. Rajah*

Veerabasava Chikka Royal and Another, , in support of his contention that a decision in regard to non-admissibility of documents being of

substance to the parties must be held to be a substantial question within the meaning of section no of the Civil Procedure Code. We are not aware

exactly what sort of objection was raised as regards the admissibility of documents in that case. But we do not understand that decision to lay

down that whenever a question as to the admissibility of any document is raised in an appeal and that question is decided in one way, it follows

ipso facto that there is a substantial question of law which would justify the grant of a certificate u/s 110 of the Civil Procedure Code.

4. The only question which arose for decision in appeal was whether one *Anantalakshmi Ammal* the mother of the plaintiff, was one of the

daughters of *Thammanna Ayyar*. The lower Court answered the question in favour of the plaintiff, and this Court confirmed the decision of the

lower Court. The fact that there was an objection to the admissibility of a particular document, however important it might be, would not make it

any other than a question of fact. In our opinion, the case does.; not involve a substantial question of law. There can be no doubt that the appeal

does not raise any question of public importance.

5. This petition is therefore dismissed with costs.