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**(1912) 09 AHC CK 0002**  
**In the Allahabad High Court**

Ram Parshad

APPELLANT

Vs

Emperor

RESPONDENT

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**Date of Decision :** 03-09-1912

**Acts Referred:**

Penal Code, 1860 (IPC) — Section 199

**Citation :** 17 Ind. Cas. 401

**Hon'ble Judges :** Rafique, J

**Bench :** Single Bench

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**Judgement**

Rafique, J.—This is an application in revision praying that the order of the District Magistrate of Cawnpore, dated the 30th of July 1912, sanctioning the prosecution of the applicant u/s 199, Indian Penal Code, be set aside. The circumstances which led to the grant of the sanction are as follows: On the 19th of February 1912, three complaints were Sled in the Court of the City Magistrate of Cawnpore, namely Musammat Rupiya v. Ram Dial; Ram Dial v. Gauri Shanker and Ram Sahai v. Gauri Shanker. The learned City Magistrate transferred the three complaints to a Bench of Honorary Magistrates composed of Nawab Khakaun Husain and Pandit Kundan Lal for disposal. There were several postponements during the trial of the three cases and on the 21st of May 1912, charge-sheets were framed. On the 31st of May 1912, three applications were filed in the Court of the District Magistrate of Cawnpore by Ram Sahai and Ram Dial for the transfer of the three cases from the Bench of the Honorary Magistrates to some other Court. The applicants for transfer made certain allegations against the Honorary Magistrates. The three applications were accompanied by three declarations, the latter being made by Ram Prasad, Puttan Lal, and Ala Baksh, The three declarations were not sworn to before any officer of a Court. The District Magistrate called upon the Honorary Magistrates for an explanation which was submitted on the 26th of June 1912. On the 29th of June 1912, an order for the transfer of the three cases to the Court of the City Magistrate was made. On the 1st of July 1912, the opposite party, namely, Musammat Rupiya and Gauri Shanker, objected to the order of the transfer on

the ground that no notice of the applications for transfer had been given to them. The District Magistrate cancelled his order of 29th June 1912 and fixed the 6th of July 1912 for the hearing and disposal of the transfer applications. On that date, some oral evidence was recorded by the District Magistrate and an order of transfer was made on the 15th of July 1912. Pandit Kundan Lal and Nawab Khakaun Husian, the Honorary Magistrates, addressed a letter to the District Magistrate denying the allegations contained in the three declarations of Ram Prasad, Puttan Lal, and Ala Baksh, and submitting their own affidavits contradicting the said declarations. After hearing the parties concerned, the learned District Magistrate sanctioned the prosecution of Ram Prasad, Puttan Lal, and Ala Baksh u/s 199, Indian Penal Code. It is against this order that the applicant, Ram Prasad, has filed the present application. It is contended, by his learned Counsel that the order of the learned District Magistrate is ultra vires, that no valid ground for granting the sanction has been made out, and that no offence u/s 199, Indian Penal Code, has been committed by the applicant. I shall take up the last objection first. It is admitted by the applicant, for the purposes of this application, that a declaration was filed by him in the Court of the District Magistrate with his application for transfer. It is, however, argued that the declaration was not one which the District Magistrate was bound or authorised by law to receive in evidence and to act upon it; and indeed he did not consider it evidence for he examined some witnesses on the basis of whose statements an order of transfer was made. Therefore, if the declaration in question contained any false statement, no offence u/s 199, Indian Penal Code, has been committed. In support of this contention, the following cases have been cited, In the matter of the petition of Iswar Chander Guho 14 C. 653; Abdul Majid v. Krishna Lal Nag 20 C. 724; Chandi Pershad v. Abdur Rahman 22 C. 131 I think that the contention for the applicant must prevail. A declaration, before it can be made the foundation of a prosecution u/s 199, Indian Penal Code, must be one which is admissible in evidence, and which the Court, before which it is filed, is bound or authorised by law to receive in evidence. The suggestion that there is no prohibition against the reception of such declaration in evidence does not render it admissible or the declarant amenable to the provisions of Section 199, Indian Penal Code. It is not pointed out for the opposite party that the declaration filed by Ram Prasad was one which, under the Criminal Procedure Code or any other law, the Court, before which the proceedings were pending, was bound or authorised to receive in evidence. I, therefore, hold that the sanction granted by the learned District Magistrate for the prosecution of the applicant u/s 199, Indian Penal Code, cannot be upheld. It is unnecessary to discuss the other objections taken on behalf of the applicant. I, therefore, set aside the order of the learned District Magistrate, dated the 30th of July 1912, as against Ram Prasad.