
(1951) 06 KAR CK 0002

In the Karnataka High Court

Case No : Criminal Revision Petition No. 48 of 1951-52

Rudrappa

APPELLANT

Vs

Gowda Chigaterappa

RESPONDENT

Date of Decision : 14-06-1951

Acts Referred:

Penal Code, 1860 (IPC) — Section 416, 471
Registration Act, 1908 — Section 82

Citation : AIR 1951 Kar 117

Hon'ble Judges : Balakrishnaiya, J

Bench : Single Bench

Advocate : U. Krishna Murthy and V. Balaratnam, for the Appellant;

Final Decision : Dismissed

Judgement

Balakrishnaiya, J.—This revision petition is filed by accused 1 in C. C. No. 1273/50-51 on the file of the Additional I Class Magistrate of Davanagore. The respondent filed a complaint dated 16-10-50 for taking action against the accused for offences under Sections 416 and 471, Penal Code., and Section 82, Registration Act. During the progress of the case, on 21-3-1951 the petitioner filed an application in the trial Court u/s 195 (1) (c), Criminal P. C., stating that the complaint is incompetent without the previous sanction of the civil Court before which the offence is said to have been committed u/s 471, Penal Code. It is not disputed that merely a copy of the alleged forged document was produced in this case.

2. Lord Simonds, in a recent case before the Privy Council *Sanmukh Singh v. The King* AIR 1950 P. C. 31, has observed as follows:

"Section 195 (1) (c) only refers to a document alleged to be forged and not to a copy of it. The reason is that the Court before which a copy of a document is produced is not really in a position to express any opinion upon the genuineness of the original. Though by production of a copy secondary evidence of the

contents of a document might be said to be given, the forged document itself cannot be said to be given in evidence and in such circumstances the absence of a complaint u/s 195 (1) (c) cannot operate as a bar to the trial of the accused."

In a case reported in Emperor v. Mustafa Ali Khan 2 or. L. J. 653 (oudh), where no original document was produced except a copy of the mortgage deed obtained from the registration department, the defendant did not appear to defend the suit, nor did he produce the original and the suit was decreed ex parte. In criminal proceedings instituted subsequently, it was objected on behalf of the accused that the prosecution could not proceed without the previous sanction of the Court u/s 195 (c), Criminal P. C., it was held that no previous sanction was necessary as the original mortgage-bond had not been produced to enable the Court to determine upon the genuineness or otherwise of the document impeached.

3. In the present case, the defendant consented to the decree with the result that neither the original was produced or acted upon ; only a copy of the impugned document was produced and the Court was not in a position to give any decision thereto. In the circumstances no sanction of the Court is necessary.

4. In this view the order of the learned Magistrate rejecting the application and posting the original complaint for evidence is not incorrect. This revision petition fails and is dismissed.