

(1909) 12 CAL CK 0053
In the Calcutta High Court

Teni Shah

APPELLANT

Vs

Bolahi Shah

RESPONDENT

Date of Decision : 01-12-1909

Acts Referred:

Citation : (1909) 12 CAL CK 0053

Judgement

1. This is a rule calling upon the Chief Presidency Magistrate to show cause why the order of the Second Presidency Magistrate summoning the petitioner should not be set aside on the ground that the sanction required by Section 195, Clause (c) of the Criminal Procedure Code, has not been obtained. The complainant made a complaint against the petitioner u/s 467 in respect of forgery of a document which had been produced at the hearing of a case tried on the Original Side of this Court. But he did not obtain sanction of the Court before he took proceeding against the petitioner.

2. Now the question which we have to consider is whether sanction is necessary. It has been argued that it was not, because the forgery is alleged to have been committed before the document was produced in the High Court. But Section 195 provides that no Court shall take cognizance without sanction of any offence described in Section 463 or punishable under certain other sections when such offence has been committed by a party to any proceeding in any Court in respect of a document produced or given in evidence in such proceeding. This forgery is alleged to have been committed in respect of a document produced at a proceeding in this Court; it comes, therefore, within the express words of Section 195 and before the petitioner could be prosecuted for forgery sanction is required.

3. It has been contended that Section 467 is not mentioned in this sub-section of Section 195 and sanction is, therefore, not required. But Section 195 renders sanction necessary in prosecution for any offence described in Sections 463 and 467 is the section which describes what forgery is Section 467 prescribes penalty for forgery of a particular kind of document. In our view Section 468 covers

forgery for which penalty is provided u/s 463 and sanction is necessary. The result, therefore, is that the summons to the petitioner in respect of an offence committed u/s 467 must be set aside.