

APPELLATE CRIMINAL.

*Before Sir Arthur J. H. Collins, Kt., Chief Justice, and
Mr. Justice Parker.*

QUEEN-EMPRESS

v.

NARAKKA AND OTHERS (PETITIONERS).*

Criminal Procedure Code, ss. 195, 476.

The High Court has no power on appeal to set aside a complaint duly made by a Subordinate Court under s. 476 of the Code of Criminal Procedure.

PETITION praying the High Court to revoke the order for prosecution of the petitioners passed by the Sessions Court of Kurnool.

The Sessions Judge of Kurnool being of opinion that there was ground for inquiring into the offence of giving false evidence committed before him in Sessions case No. 18 of 1889 by the present petitioners sent the case under Criminal Procedure Code, section 476, to the District Magistrate of Kurnool for inquiry.

The present petitioners prayed for the revocation of the above proceedings of the Sessions Judge.

Parthasaradhi Ayyangar for petitioners.

JUDGMENT.—The Court has no power, on appeal, to set aside a complaint duly made by a Subordinate Court under section 476, Code of Criminal Procedure, see *Queen-Empress v. Rachappa* (1). Without expressing any opinion as to the desirability of the prosecution of the second prosecution witness and of the defence witnesses we can only say that no sufficient grounds have been shown for interfering on revision with the exercise of the Judge's discretion. We think it is to be regretted that the Judge should have ordered the criminal prosecution of a child of such a tender age (8 years) as Lakshmakka, but the Magistrate will no doubt be careful to consider whether her statements, if false, were also wilfully false, before he commits her for trial, and whether she knew and realized the nature of the evidence she was giving.

The petition is dismissed.

* Criminal Miscellaneous Petition No. 86 of 1889.

(1) I.L.R., 13 Bom., 109.