

## APPELLATE CRIMINAL.

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

1889.  
March 28.

QUEEN-EMPRESS

v.

SESHAYYA.\*

*Criminal Procedure Code, ss. 476, 477, 480 and 485—Jurisdiction of Judges and Magistrates in respect of offences committed before themselves—Penal Code, s. 175.*

A Court other than the High Court, &c., can try persons for offences committed before itself only in cases to which s. 477, 480 or 485 is applicable; and none of these sections is applicable when the accused is charged under s. 175 of the Penal Code.

CASE reported for the orders of the High Court under section 438 of the Code of Criminal Procedure, by C. A. Bird, Sessions Judge of Godávári.

The accused had been summoned as a witness to produce certain documents in calendar case No. 5 of 1888, on the file of the General Duty Deputy Magistrate, Godávári, but failed to produce them, saying that they were not in his possession. The Magistrate having found that the statement was incorrect and that the accused could have produced the documents in question, charged him with having committed an offence under section 175 of the Indian Penal Code, and himself tried and convicted him.

The accused appealed to the Sessions Judge, who held that he had no jurisdiction to try the appeal, and accordingly reported the matter to the High Court.

Accused was not represented.

The *Acting Government Pleader* (*Subramanya Ayyar*) for the Crown.

The Court made the following

ORDER:— We are of opinion that the referring officer is right and that the Magistrate had no jurisdiction to try the accused for

\* Criminal Revision Case No. 56 of 1889.

the offence charged, such offence having been committed before himself or in contempt of his authority. The procedure to be adopted is that laid down in section 476, Criminal Procedure Code. There are only three cases in which a Court, other than the High Court, &c., can try any person for certain offences when committed before itself. These are provided for in sections 477, 480 and 485. Section 477 obviously does not apply to this case. Section 480 only refers to certain offences committed in the view or presence of the Court and taken cognizance of the same day. This section also is inapplicable in this case. For the same reasons section 485 does not apply, and the Magistrate was, therefore, clearly precluded by the provisions of section 487 from trying the case himself. We set aside the conviction and sentence and direct the fine, if paid, to be refunded.

QUEEN-  
EMPERESS  
v.  
SESHAYYA.

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## APPELLATE CIVIL.

*Before Mr. Justice Muttusami Ayyar and Mr. Justice Parker.*

RAMAYYA AND OTHERS (DEFENDANTS NOS. 7 TO 16), APPELLANTS,

1889.  
March 29.

v.

SUBBARAYUDU AND OTHERS (PLAINTIFF AND DEFENDANTS  
NOS. 1 TO 6), RESPONDENTS.\*

*Jurisdiction—Objection as to, first taken on appeal—Suit for partition.*

Plaintiff sued in the District Court for partition of an one-seventh share purchased by him in an undivided agrapharam, of which the total value was about Rs. 10,400, and obtained a decree. The defendants on appeal objected that the suit should have been filed in the District Munsif's Court:

*Held*, that the suit should have been filed in the District Munsif's Court. *Vyādinatha v. Subramanya* (I.L.R., 8 Mad., 235), distinguished.

*Per cur*: Though the objection was not taken in the Court below, yet it is apparent on the face of the plaint and has reference to the jurisdiction of the Court; we must therefore consider it.

APPEAL against the decree of W. G. Underwood, Acting District Judge of Kistna, in original suit No. 9 of 1887.

The plaint alleged that the Ketumukkuvari agrapharam was originally the property of the defendants, that one-seventh of the agrapharam was sold in execution of the decree in original suit

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\* Appeal No. 15 of 1888.