

APPELLATE CRIMINAL.

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

QUEEN-EMPRESS

v.

ARLAPPA AND OTHERS. *

*1891.
September 30.
October 19.

Criminal Procedure Code, s. 419—Petition of appeal, presentation of.

A petition of appeal sent by post is not presented to the Court within the meaning of Criminal Procedure Code, s. 419.

CASE reported for the orders of the High Court, under section 438 of the Code of Criminal Procedure, by O. Wolfe-Murray, Acting District Magistrate of Cuddapah.

The case was stated as follows :—

“ The Head Assistant Magistrate admitted a criminal appeal presented by post. He requests me to refer the question to the High Court for a definite ruling on the matter in view of the apparently contrary rulings of the High Court on the point which now exists.

“ His procedure in admitting the appeal is in contravention of the ruling in *Lurissetti Pitchaiya in re*(1) and in conformity with the ruling in Criminal Revision Case No. 607 of 1890 ; the latter, however, does not specifically overrule the ruling referred to above.”

The Government Pleader and Public Prosecutor (Mr. Powell) for the Crown.

COLLINS, C. J.—I was at first inclined to think that a petition, under section 419, Code of Criminal Procedure, sent through the post, should be received as fulfilling the requirements of the section, but on further consideration, I am of opinion that the decision of Kernan and Muttusami Aiyar, JJ., reported in Weir's Criminal Rulings, page 1006, is correct. The words used in the section are “ Every appeal shall be made in the form of a petition in writing presented by the appellant or his pleader.”

* Criminal Revision Case No. 326 of 1891.

(1) Weir's Criminal Rulings, 3rd edition, p. 1006.

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EMRESS
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The word presented evidently means that such petition shall be delivered to the proper officer of the Court either by the appellant or his pleader. Any other interpretation of the section would give rise to numberless difficulties. I hold, therefore, that a petition sent by post is not presented to the Court within the meaning of section 419, Code of Criminal Procedure.

SHEPARD, J.—I have had considerable doubts on this question, but am not prepared to differ.

APPELLATE CRIMINAL—FULL BENCH.

Before Sir Arthur J. H. Collins, Kt., Chief Justice, Mr. Justice Muttusami Ayyar, Mr. Justice Parker, and Mr. Justice Shephard.

1891.
January 22.
October 13.
1892.
January 8.

ATCHAYYA AND ANOTHER (ACCUSED NOS. 1 AND 2), PETITIONERS,

vs.

GANGAYYA (COMPLAINANT), COUNTER-PETITIONER.*

*Criminal Procedure Code, s. 195—Registration Act—Act III of 1877, ss. 72-75—
“ Court ”—Sanction prosecution for perjury.*

A Registrar, acting under Registration Act, ss. 72-75, is a Court for the purposes of Criminal Procedure Code, s. 195.

PETITION, under sections 435 and 439 of the Code of Criminal Procedure, praying the High Court to revise the order of F. H. Hamnett, Sessions Judge of Godavari, dated 21st November 1890, passed on criminal revision petition No. 9 of 1890.

Parthasaradhi Ayyangar and Srirangachariar for petitioners.

Mr. Wedderburn for respondent.

This criminal revision petition having come on for hearing before MUTTUSAMI AYYAR and WILKINSON, JJ., their Lordships made the following order of reference to the Full Bench.

ORDER OF REFERENCE TO FULL BENCH.—The counter-petitioner denied the execution of an instrument of mortgage which was presented for registration to the Sub-Registrar of Rajahmundry by the second petitioner as the agent and on behalf of the first in July last. Thereupon the Sub-Registrar refused to register the document. The first petitioner then applied to the Registrar of Godavari district under section 73 of Act III of 1877 to establish

* Criminal Revision Case No. 599 of 1890.