regard the pledge as the primary transaction and the promissory note only as a further security. This is the only point argued, and we dismiss this petition with costs.

APPELLATE CIVIL.

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

RAMAN NAYAR (PLAINTIFF), APPELLANT,

v.

SUBRAMANYA AYYAN (DEFENDANT), RESPONDENT.*

1893. April 11, 13.

Defamation—Privilege of Judge.

An action for defamation cannot be maintained against a Judge for words used by him whilst trying a cause in Court even though such words are alleged to be false, malicious and without reasonable cause.

APPEAL against the order of A. Thompson, District Judge of North Malabar, in original suit No. 1 of 1892, rejecting a plaint under Civil Procedure Code, s. 4 (*c*), on the ground that the suit was barred by the provisions of Act XVIII of 1850.

The plaintiff had been a party to certain suits pending in the Court of a District Munsif, and it was averred in the present plaint that when the suits came on for hearing the District Munsif used certain expressions "in connection with me wilfully and unneces-"sarily with a malicious intention of putting me to disgrace and "without reasonable cause." The above-mentioned words, it was averred, were used neither in the judicial capacity of a Judge who was going on with the trial nor for the purpose of the suit under trial. The plaintiff now sought a decree for damages against the defendant, the said District Munsif, on account of the defamation above referred to. The plaint having been rejected as above stated, the plaintiff preferred this appeal.

Mr. *Wedderburn* for appellant.

The Acting Government Pleader (*Subramanya Ayyar*) and *Sundara Ayyar* for respondent.

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* Appeal No. 77 of 1892.

RAMAN NAYAR v. SUBRAMANYA AYYAN.

JUDGMENT.—This was an action for slander, and it was alleged in the plaint that the words complained of were uttered by the defendant, who is the Munsif of Payoli, during the hearing of a suit to which the plaintiff was a party.

The District Judge rejected the plaint under section 54 (*c*), Civil Procedure Code, holding that the suit was barred under a positive rule of law, and that Act XVIII of 1850 applied.

The real question for our decision is, can an action for slander be maintained against a Judge for words used by him whilst trying a cause in Court even though such words were alleged to be false, malicious and without reasonable cause.

This question has long been decided in the negative by the Courts in England on the grounds of public policy, and we think that the English law is applicable to Courts in India. In *Scott* v. *Stansfield*(1), the facts were very similar to the present case, and the Court of Exchequer consisting of Kelly, C.B., and Martin, Bramwell and Channell, B.B., unanimously decided that such an action would not lie; the reasons given were that it is essential in all Courts that the Judges who are appointed to administer the law should be permitted to administer it under the protection of the law, independently and freely without favour and without fear. This provision of the law is not for the protection or benefit of a malicious or corrupt Judge, but for the benefit of the public, whose interest it is that the Judges do exercise their functions with independence and without fear of consequences. In *Dawkins* v. *Lord Rokeby*(2), the Court of Exchequer Chamber consisting of ten Judges held that the authorities are clear, uniform and conclusive that no action of slander lies against Judges . . . . for words spoken in the ordinary course of any proceeding before any Court or Tribunal recognised by law. A Full Bench of the Madras High Court has held that the English authorities on this subject apply to Judges and Courts in India. See *Sullivan* v. *Norton*(3).

Act XVIII of 1850 quoted by the District Judge does not appear to apply in a case like the present.

We dismiss the appeal with costs.

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(1) L.R., 3 Ex., 220. (2) L.R., 8 Q.B., 255. (3) I.L.R., 10 Mad., 28.