

without proof, actions which it holds to be vexatious" (*Haggard v. Pelicier Freres*(1), see also *Remington v. Scoles*(2) and *Stephenson v. Garnett*(3)).

VIJAYASAMY
TEVAR
v.
SASTIVARMA
TEVAR.

No doubt the power is one which ought to be exercised sparingly and only in very exceptional cases. The present case is in our opinion clearly one of that exceptional character.

We accordingly dismiss the appeals and the revision petition with costs.

APPELLATE CRIMINAL.

Before Mr. Justice Boddam and Mr. Justice Moore.

EMPEROR, APPELLANT,

v.

JONNALAGADDA VENKATRAYUDU, RESPONDENT.*

1905.
July 10.

Penal Code Act XLV of 1860, s. 182—Criminal Procedure Code, Act V of 1889, ss. 154, 162—False information to a Village Magistrate.

An offence under section 182 of the Penal Code is committed by a person giving false information to a Village Magistrate charging another with having committed an offence. Where such information is given with the view to it being passed on to the Station-house Officer, who, on receiving the information, takes a complaint in writing from such informant, the complaint is one taken under section 154 and not under section 162 of the Criminal Procedure Code.

The Queen v. Perriannan and The Queen v. Naraina, (I.L.R., 4 Mad., 241), distinguished.

In this case the accused on the 3rd June 1904 charged one Rukminamma before the Village Magistrate, with having set fire to a straw heap. The Village Magistrate at once sent a report to the police station. A constable was sent to the village next day to make an investigation into the case, and he took a statement in writing from the accused. The information given by the accused

(1) L.R., (1892), A.C., 61 at pp. 67, 68 (J.C.).

(2) L.R., (1897), 2 Ch.D., 1.

(3) L.R., (1898), 1 Q.B.D., 677.

* Criminal Appeal No. 89 of 1905, presented under section 417 of the Code of Criminal Procedure against the judgment of acquittal passed on the accused in Calendar Case No. 175 of 1905 by M.R. B. Venkatarama Ayyar, Second-class Magistrate of Mangalagiri Division.

EMPEROR
2.
JONNALA-
GADDA
VENKAT-
RAYUDU.

was found to be false, and he was prosecuted under section 182 of the Indian Penal Code.

The accused was acquitted by the Sub-Magistrate. The material portion of his judgment was as follows:—"The first information was not, in this case, given to the police, and the statement recorded by the witness was evidently, during the course of his investigation, presumably under section 162, Criminal Procedure Code, and not under section 154, Criminal Procedure Code (*The Queen v. Periannan* and *The Queen v. Naraina*(1)) is clear on this point. The information contemplated under section 154 (?), Criminal Procedure Code, was the first information given to the police by the informant. No charge would therefore lie under section 182, Indian Penal Code. The accused is therefore acquitted under section 245, Criminal Procedure Code."

This appeal was preferred by the Public Prosecutor against the order of acquittal.

The Public Prosecutor for appellant.

Mr. M. A. Thirunarayana Charariar for respondent.

JUDGMENT.—We are clearly of opinion that the acquittal of the accused in this case was wrong and must be set aside.

On the 3rd June 1904, the accused gave to a Village Magistrate (a public servant) oral information of an offence having been committed. The Village Magistrate informed the Police Station-house Officer, and he went on the 4th June and took a complaint from the accused under section 154, Criminal Procedure Code. The information given to the Village Magistrate and the complaint signed by the accused on the 4th were false and the accused was charged under section 182, Indian Penal Code, with having made a false complaint with evil intention, etc. The Second-class Magistrate has acquitted the accused on the ground that giving the information to the Village Magistrate is not an offence within section 182 and the complaint signed by the accused on the 4th was not a complaint within section 182, as the accused had already given information to the Village Magistrate that the complaint to the Station-house Officer was not admissible in evidence having been made under section 162, Criminal Procedure Code, and not under section 154, and further that the case was determined by *The Queen v. Periannan* and *The Queen v. Naraina*(1).

(1) I.L.R., 4 Mad., 241.

We are of opinion that *The Queen v. Periamman* and *The Queen v. Naraina*(1) does not apply. Section 182, Indian Penal Code, has, since that decision, been altered and the reasoning of the Judges in that case does not apply to the present case under the altered section.

EMPEROR
JONNALA-
GADDA
VENKAT-
RAYUDU.

We are further of opinion that the information given to the Village Magistrate was sufficient to justify a charge under section 182, Indian Penal Code, even if it had not been followed up by the Station-house Officer taking a complaint under section 154, Criminal Procedure Code, and also that the evidence given proved that a complaint was in fact and in law made by the accused on the 4th June to the Station-house Officer under section 154. We agree with Mayne (Mayne's 'Criminal Law,' p. 592) that information given to A (the Village Magistrate) for the purpose of being passed on to B (the Station-house Officer) and which it was his bounden duty so to pass on must be considered as having been given to B so as to justify his taking the complaint in writing from the accused under section 154, Criminal Procedure Code.

We therefore set aside the acquittal and direct that the case be restored to the file of the Second-class Magistrate and disposed of according to law.

(1) I.L.R., 4 Mad., 241.
