

PAC HAI
AMMAL.

the Criminal Procedure Code by a competent Court cannot question the propriety or legality of the sanction given by the Magistrate in respect of an offence of the kind mentioned in section 195, which is alleged to have been committed in any proceeding before his Court.

The petition is rejected.

APPELLATE CRIMINAL.

Before Mr. Justice Benson and Mr. Justice Blashyam Ayyangar.

*IN RE MUTHUKUDAM PILLAI (ACCUSED), PETITIONER.**

1902.
April 7.

Criminal Procedure Code—Act V of 1898, s. 195—Sanction to prosecute—Computation of the period of six months—Starting point—Date of original sanction and not of appellate order.

The period of six months during which sanction to prosecute remains in force under section 195 (6) of the Code of Criminal Procedure is to be computed from the date of the original order granting sanction and not from that of a final order of an Appellate Court declining to revoke it.

CASE referred for orders. On 30th March 1901, the Stationary Second-class Magistrate of Periyakulam sanctioned the prosecution of one Muthukudam Pillai. An appeal was preferred against this order to the Joint Magistrate, at Dindigul, who, on 9th May 1901, confirmed the proceedings of the Stationary Magistrate. Muthukudam Pillai then filed a revision petition in the High Court against the orders granting and upholding sanction, which was dismissed on 1st October 1901. On 30th September 1901 complaint was filed, but the Sub-Magistrate declined to take further proceedings against the accused as the period of six months from the date of the original sanction expired on 29th September. The question referred to the High Court was whether the six months during which sanction remains in force under section 195 of the Code of Criminal Procedure should be computed from the date of the original order granting it or from that of the order of

* Case referred, No. 17 of 1902, for the orders of the High Court, by A. G. Cardew, District Magistrate of Madura, in his letter, dated 1st February 1902, Reference No. 253 (Magisterial) of 1902.

an Appellate Court declining to revoke it. The Court was requested to extend the time if necessary.

In re
MUTHUKUDAM
PILLAI.

JUDGMENT.—The application is not opposed. We do not think that the period of six months can be reckoned from the date of the final order of the Appellate Court declining to revoke the sanction. The sanction will lapse at the expiration of six months from the date on which it was given. The fact that an appeal has been preferred against it is no impediment to the institution of criminal proceedings on the strength of the sanction, though, as a general rule, it may be a reasonable ground for stay of proceedings by the Magistrate before whom the complaint has been preferred, pending the disposal of the appeal.

We resolve, in the circumstances now reported, to extend the time under section 195 (6), Criminal Procedure Code, to the 7th May next inclusive.

APPELLATE CRIMINAL.

Before Mr. Justice Bhashyam Ayyangar.

EMPEROR, APPELLANT,

v.

CHERATH CHOYI KUTTI (ACCUSED), RESPONDENT.*

Evidence Act—1 of 1872, s. 155 (3)—Statements previously made by witnesses—Inadmissibility as substantive evidence.

1902.
July 29.

Two persons made statements to the effect that C and another had robbed them and caused hurt while doing so. One statement was made to their employer, and the other to the Head Constable. C was subsequently charged and these two persons were called as witnesses for the prosecution, but they then denied that C was one of the men who had assaulted them. Their previous statements were filed, but neither the employer nor the Head Constable was called to depose to the terms of the statements which the witnesses were said to have made:

Held, that the former statements referred to, and which implicated the accused, could be used only under section 155 (3) of the Evidence Act for discrediting their evidence and not as substantive evidence against the accused.

* Criminal Appeal No. 409 of 1902 under section 417 of the Code of Criminal Procedure, against the judgment of acquittal passed on the accused in Criminal Appeal No. 126 of 1901 by A. Venkataramana Pai, Sessions Judge of South Malabar.