

## APPELLATE CRIMINAL.

*Before Mr. Justice Bhashyam Ayyangar.*

PACHAI AMMAL (ACCUSED), PETITIONER.\*

1902.  
September 1.

*Criminal Procedure Code—Act V of 1898, s. 195—Prosecution sanctioned by competent authority—Trial by another Magistrate in pursuance of sanction—Competency of Court to question propriety of sanction.*

Where sanction has been accorded under section 195 of the Criminal Procedure Code by a competent Court and a prosecution is instituted in pursuance thereof, it is not competent to the Court which is trying the case to question the propriety or legality of the sanction in respect of an offence of the kind mentioned in section 195, which is alleged to have been committed in any proceeding in the Court by which the sanction was granted.

PETITION to revise a conviction and sentence. Petitioner had preferred against one Chennam in January 1901 a charge of theft, and in February 1901 a charge of indecent assault. Both charges were ultimately thrown out as false, and application was made to the Tahsildar-Magistrate for sanction to prosecute her. This was accorded, and petitioner was accordingly charged with having made the two false charges. When the case was being tried by the Sub-Divisional Magistrate of Salem, objection was taken on behalf of the petitioner that the sanction had not been accorded by the Tahsildar-Magistrate who originally threw out the complaints as false, but by his successor; also that sanction had been accorded without notice to the petitioner. The Sub-Divisional Magistrate overruled both objections, tried the case, and convicted the petitioner. On appeal, the Sessions Judge regarded the sanction as invalid, and considered that the Sub-Divisional Magistrate should not have accepted it, but held that the defect was cured by section 537 of the Criminal Procedure Code. He dismissed the appeal on the merits.

Petitioner now preferred this criminal revision petition.

Mr. *Nugent Grant* for petitioner.

JUDGMENT.—The Magistrate before whom a prosecution is instituted in pursuance of a sanction given under section 195 of

\* Criminal Revision Case No. 373 of 1902 against the judgment of Leslie Miller, Sessions Judge of Salem, confirming the sentence passed by the Joint Magistrate of Salem in Calendar Case No. 30 of 1902.

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.

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## APPELLATE CRIMINAL.

*Before Mr. Justice Benson and Mr. Justice Bhashyam 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.