

sentence be reversed or altered. In this case the prosecution, in pursuance of the sanction, was instituted before the Stationary Sub-Magistrate of Madurantakam which lies within the Sessions Division of Chingleput and the proceedings in connection with that prosecution are pending before him, but the Sessions Judge of South Arcot, after entertaining a petition under section 435 from the accused before the Madurantakam Sub-Magistrate, and on a motion made by him on the 7th July 1902, passed on the same day an order that proceedings (if any) should be stayed pending disposal of the Revision Petition. This order is clearly *ultra vires*, the Court of the Madurantakam Sub-Magistrate being outside the territorial jurisdiction of the Sessions Judge of South Arcot, even assuming that the Sessions Judge could stay proceedings before any Criminal Court in his own Sessions Division pending the disposal of any proceedings before him under section 435. I accordingly set it aside without prejudice to his disposing, according to law, of the petition presented to him by the accused under section 435 to move the High Court under section 438 to quash the sanction.

V. SHAN-
MUGAM
CHETTY.
v.
PENNAPPA
MUDALI.

APPELLATE CRIMINAL.

Before Mr. Justice Bhashyam Ayyangar.

IV *RE* CHENNANAGOUD AND ANOTHER, PETITIONERS.*

1902.
August 5.

Criminal Procedure Code—Act V of 1898—ss. 435, 439—Jurisdiction of High Court under Criminal Procedure Code to revise order according sanction which has been granted by a Civil Court.

The High Court has no jurisdiction, under sections 435 and 439 of the Code of Criminal Procedure, to revise an order passed by any Court other than a

* Criminal Revision Petitions Nos. 303 and 304 of 1902, presented under sections 435 and 439 of the Code of Criminal Procedure, praying the High Court to revise an order of S. Russell, Acting Sessions Judge of Bellary, dated 1st April 1902, passed on Criminal Revision Petitions Nos. 5 and 4 of 1902, respectively, seeking to revoke the sanction granted by V. G. Narayana Ayyar, District Munsif of Bellary, to prosecute the petitioners under sections 193 and 468 of the Indian Penal Code.

In re
CHENNANA-
GOUD.

Criminal Court under clause (b) or (c) of sub-section (1) of section 195 of the Code of Criminal Procedure, according sanction to institute a prosecution; or an order passed under sub-section (6) of section 195 revoking or refusing to revoke a sanction which has been given or granting a sanction which has been refused.

It may be open to the High Court, under section 622 of the Code of Civil Procedure, to revise such proceedings of a Civil Court, in cases which come within the terms of that section.

PETITION for sanction to prosecute counter-petitioners under sections 193, 196 and 465 of the Indian Penal Code. The petition was filed in the Court of the District Munsif of Bellary, in whose Court the first counter-petitioner had instituted a suit to recover a sum of money due on a bond executed by the father of the present petitioner. A decree was passed in favour of the first counter-petitioner. In execution of that decree a sale was held and a sale-list was prepared, which petitioner contended was a false one. It was with reference to this sale-list that sanction was asked for. The District Munsif considered that a *prima facie* case was made out and accorded sanction for their prosecution under sections 193 and 468 of the Indian Penal Code. The counter-petitioners then presented Criminal Revision Petitions in the District Court of Bellary, under section 195 of the Code of Criminal Procedure, praying the Court to revoke the sanction which the District Munsif had granted. The District Judge, treating the applications as having been made to him as Sessions Judge, upheld the finding that a *prima facie* case had been made out and dismissed the petitions.

Against that order, the counter-petitioners presented this Criminal Revision Petition to the High Court under sections 435 and 439 of the Code of Criminal Procedure.

T. Venkatasubba Ayyar and *Narayana Sastry* for petitioners in Criminal Revision case No. 303 and *K. Narayana Rau* for petitioners in Criminal Revision case No. 304.

JUDGMENT.—In my opinion the High Court cannot, under the provisions of sections 435 and 439, Criminal Procedure Code, revise an order passed by any Court other than a Criminal Court under clause (b) or (c) of sub-section (1) of section 195, Criminal Procedure Code, according sanction for the prosecution of any person who is alleged to have committed any of the offences therein referred to in relation to any proceeding in such Court, nor revise an order passed under sub-section (6) of section 195

revoking or refusing to revoke a sanction given or granting a sanction refused by such Court.

In re
CHENNAI
GOVT.

Sub-section (2) of section 195 defines the 'Court' referred to in clauses (b) and (c) of the same section to be a Civil, Revenue or Criminal Court. Sub-section (7) declares that the Court which under sub-section (b) may revoke or grant a sanction given or refused under clauses (b) and (c) of sub-section (1) is the Court to which appeals ordinarily lie from the Court so giving or refusing.

In the present case the sanction was given by the District Munsif and applications were made under sub-sections (6) and (7) of section 195 to the District Judge to revoke such sanction. But the District Judge, treating them as applications made to him as a Sessions Judge, refused to revoke the sanction. Under sub-section (7) it is quite clear that the applications lay to him only as District Judge, for appeals from the District Munsif's Court lie only to the District Judge and not to the Sessions Judge, and he acted irregularly in dealing with them as a Sessions Judge. This, however, is only an irregularity which is not material and the order passed by him refusing to revoke the sanction given by the District Munsif must be treated as one passed by him as District Judge. As the District Judge did not in this case grant a sanction refused by the District Munsif, the High Court cannot act under sub-sections (6) and (7) and revoke a sanction given by the District Munsif, who is not, within the meaning of sub-section (7), subordinate to the High Court, which sanction the District Judge refused to revoke.

Under section 435, Criminal Procedure Code, the High Court can only call for and examine the record of any proceeding of a Criminal Court and, under section 439, it can only revise the proceedings of a Criminal Court, including of course, proceedings in a Criminal Court under section 195, and under that same section 439 it can also exercise the power of according original sanction in respect of an offence of the description referred to in clauses (b) and (c) of section 195 (1) committed in a Criminal Court, or of revoking or granting a sanction given or refused by a Criminal Court, though appeals do not lie to the High Court from such Criminal Courts. The reference in section 439 to section 195 is thus given full effect to, without assuming that under sections 435 and 439 the High Court can also revise the proceedings of Civil and Revenue Courts acting under section 195. It is only under section

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195 that a Revenue Court also gives or refuses sanction in respect of offences therein referred to and if a Revenue Court gives sanction under clause (b) or (c) and such sanction is under sub-section (6) revoked or refused to be revoked by a higher Revenue Court, say, the Board of Revenue, to which appeals lie from such Revenue Court, it is obvious that the High Court cannot, under section 439, revise those proceedings. If that be so, it is difficult to see on what principle similar proceedings of a Civil Court can be revised by the High Court under section 439, Criminal Procedure Code. When a Civil or Revenue Court acts with the powers of a Criminal Court under section 478 and makes a commitment to a Court of Session, section 215 authorizes the High Court to quash such commitment on a point of law.

It may be that, under section 622 of the Code of Civil Procedure the powers of revision under which are much narrower than those conferred by sections 435 and 439, Criminal Procedure Code, the High Court may, in a fit and proper case, revise the proceedings of a Civil Court under section 195, Criminal Procedure Code, whether it be the Court of First Instance or an Appellate Court. In the present case there are no grounds for revising under section 622, Code of Civil Procedure, the order of the District Judge refusing to revoke the sanction accorded by the District Munsif and there is therefore no object in treating this Criminal Revision Petition as a Civil Revision Petition presented under section 622, Civil Procedure Code, and allowing the same to be thus amended.

The Revision Petitions are therefore rejected.