

GURUSWAMI
NAICKER
v.
MAHOMMA-
DHU
ROWTHER.

distinction should be made. Holding, as we do, that the present case falls under section 150 we think the Subordinate Judge acted wrongly in declining jurisdiction in the matter of this application.

We set aside his order and remand the application to him for fresh disposal according to law. Costs to abide and follow the result.

N.R.

APPELLATE CIVIL.

Before Mr. Justice Oldfield and Mr. Justice Devadoss.

1922,
October 26.

GULAM MOHIDEEN QUARISHI SAHIB (RESPONDENT),
PETITIONER.

v.

AHAMADULLA BEGUM SAHIBA (2ND PETITIONER),
RESPONDENT.*

Criminal Procedure Code (V of 1898), sec. 195—Death of applicant for sanction for perjury—No jurisdiction to allow legal representative to continue the application.

Criminal proceedings instituted by a private complainant abate on his death. Hence a petition for sanction for perjury filed by a party cannot on his death be allowed to be continued by his legal representative, though the latter may himself present a new application for the same purpose.

PETITION praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to issue an order revoking the sanction accorded by C.G. AUSTIN, Acting District Judge of South Arcot, in Original Petition No. 68 of 1921 on the 31st day of October to the respondent herein to prosecute the petitioner herein for an offence punishable under section 193 of the Indian Penal Code. The facts are given in the judgment.

* Civil Miscellaneous Petition No. 1030 of 1922.

L. S. Veeraraghava Ayyar for petitioner.

S. Ranganadha Ayyar for respondent.

The judgment of the Court was delivered by
OLDFIELD, J.

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ORDER.

The petitioner asks us to revoke the sanction granted by the District Court, South Arcot, for his prosecution for an offence punishable under section 193 of the Indian Penal Code. Sanction was originally refused by the District Munsif and was afterwards granted by the District Court. During the pendency of the proceedings in the District Court the original applicant for the sanction died and the application was continued by his widow, as his legal representative; and she is here to support the District Court's order.

The only question, which it is necessary for us to decide, is whether a legal representative is in such circumstances entitled to continue an application originally made by her predecessor in interest. The general rule is that any person whatever can institute a complaint of an offence other than certain offences clearly specified in the Code, such as defamation. An offence under section 193, Indian Penal Code is not one of those excepted offences. There would therefore be no objection to an application for sanction by the legal representative of a person directly affected, instead of that person himself; and that was the basis of the order of the District Judge. That, however, takes no account of another principle of equally general application, that criminal proceedings instituted by a private complainant abate on such person's death. It is not necessary to give authority in support of that principle. We may, however, point out that, when an exception is intended as in the case of proceedings under section 145, Criminal Procedure Code, such exception is specified clearly. We have not been

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shown that an application for sanction differs from other Criminal Proceedings. It is suggested that an application for sanction is merely preliminary to the making of a substantive complaint and that is true; but, at the same time, we must regard it as part of a Criminal Proceeding, since there is no justification for holding that it is not an essential stage in one.

In these circumstances we cannot agree with the lower Court that it was entitled to grant the sanction to the legal representative on a petition presented by that representative's predecessor. We must, therefore, revoke the sanction granted. We add only that it is no doubt open to the legal representative herself to apply for sanction if so advised; and we express no opinion as to the prospects of such application.

N. R.

APPELLATE CRIMINAL.

Before Mr. Justice Wallace.

1922,
September,
28. S. P. NATARAJA PILLAI (ACCUSED), PETITIONER.*

Madras City Police Act (III of 1888), sec. 53—Society for the Prevention of Cruelty to Animals, agent of—Indian Penal Code (Act XLV of 1860), sec. 21 (8)—Public servant.

An agent of the Society for the Prevention of Cruelty to Animals appointed, under Act III of 1888, a member of the Madras City Police force with respect to offences under section 53 of that Act only, is a public servant within the meaning of section 21 (8) of the Indian Penal Code.

Upendra Kumar Ghose v. The King-Emperor, (1906) 3 C.L.J., 475, followed.

PETITION under sections 435 and 439 of the Code of Criminal Procedure, 1898, and section 107 of the Government of India Act, praying the High Court to

* Criminal Revision Case No. 216 of 1922.