

ABHIRAMA-
VALLI
v.
OFFICIAL
TRUSTEE,
MADRAS.

of 1870 which in my opinion does not lend any support to the respondents' arguments.

For the above reasons I hold that the terms of the insurance policy in the present case fall within the language of section 6 of the Married Women's Property Act of 1874, and so a statutory trust in favour of the petitioner has been created under the Act. She is therefore entitled to claim the money. Her prayer in the petition is granted with costs which I fix at Rs. 75.

G.R.

APPELLATE CRIMINAL.

Before Mr. Justice Jackson.

1931,
April 23.

IN RE MARWADI GANESH MULL (ACCUSED), PETITIONER.*

Alternative charges—Statement in the committing Court contradicted in the Sessions Court—Statement in Sessions Court true—Sessions Judge, if competent to complain that one or the other of the statements must be false—Practice.

When a person makes a statement in the Committing Court and contradicts it in the Sessions Court, the Sessions Judge can complain in the alternative that one or other of the statements must be false, even though the statement in the Sessions Court is true, since the false statement at the committal stage which eventuates in a trial is "in relation to the trial".

By way of superabundant caution, in these alternative cases, it is well to have complaints from both the Courts.

PETITION under sections 435 and 439 of the Code of Criminal Procedure, 1898, praying the High Court to revise the judgment of the Court of Session of the Anantapur Division in Criminal Appeal No. 45 of 1930 preferred against the judgment of the Court of the Joint Magistrate, Hospet, in Calendar Case No. 51 of 1930.

* Criminal Revision Case No. 61 of 1931.

V. V. Srinivasa Ayyangar and S. Ramanujachari
for petitioner.

GANESH
MULL,
In re.

Public Prosecutor (L. H. Bewes) for the Crown.

JUDGMENT.

This Court would not have called up this case except that it involves an interesting point of law; because the petitioner confined his appeal below to a plea *ad misericordiam*, and a party must obviously work out all his remedies in the properly constituted Courts below before he comes up for revision.

The point of law is whether, when a person makes one statement in the committing Court and contradicts it in the Sessions Court, the Sessions Judge can complain in the alternative that one or other of the statements must be false. If the statement in the Sessions Court is true, can the Sessions Judge complain of the statement in the committing Court? He can only do so if the latter statement has been committed in relation to the Sessions trial. It has been held in Calcutta in *Nazir Ahmed v. Emperor*(1) that if a person makes a false charge in a police station which eventuates in a trial, the false charge is in relation to the trial. In the same way the false statement at the committal stage which eventuates in a trial is in relation to the trial. The learned Judges in *Bami Reddi v. Public Prosecutor of Kurnool*(2) were considering subordinacy and not the phrase "in relation to".

In these circumstances it cannot be said that the lower Courts erred in law. But by way of superabundant caution in these alternative cases it is well to have complaints from both Courts. On the merits there is no reason to interfere. The petition is dismissed.

K.N.G.

(1) (1926) 100 I.C. 708.

(2) (1914) 27 M.L.J. 586.