

CRIMINAL REVISION.

Before Sir W. Comer Petheram, Knight, Chief Justice, and Mr. Justice Beverley.

1887
February 19.

IN THE MATTER OF THE PETITION OF GOLAM AHMED KAZI.*
*Penal Code (Act XLV of 1860), s. 182—False information to the police—
Charge made against no specific person—Specific Charge.*

Section 182 of the Penal Code must be read as an entire section, and, when so read, it applies to those cases in which the police are induced, upon information supplied to them, to do or omit to do something which might effect some *third person* and which they would not have done had they known the truth of the matter laid before them.

ON the 14th December, 1886, one Golam Ahmed Kazi informed the police that, whilst proceeding along a certain road at night, he was attacked and robbed of a shawl; he, however, made no mention of any particular person being implicated in the attack. On this information the police inquired into the matter, and searched the house of the mistress of Golam Ahmed Kazi, but from her evidence taken by the police on the enquiry, it transpired that the shawl in question had been given to her by Golam Ahmed Kazi some time previously, but had been lent to him by her for a short time, and that on the night of the 14th December he had worn the shawl and had at her request returned it to her. Golam Ahmed Kazi was thereupon accused by the Inspector of Police of having given false information to the effect that he had been robbed of the shawl.

The Joint Magistrate of Sealdah, before whom the case was heard, charged the accused under s. 182 of the Penal Code, and convicting him of an offence thereunder sentenced him to six weeks' rigorous imprisonment.

The prisoner petitioned the Sessions Judge of the 24-Pergunnahs to send for the record and to take steps to have the conviction set aside. The Sessions Judge however refused to interfere, and with reference to the case of *Reg. v. Saraji*

* Criminal Revision No. 28 of 1887, against the order passed by C. B. Garrett, Esq., District Judge of 24-Pergunnahs, dated 20th of January, 1887, confirming the order passed by Baboo Gopendra Krishna, Officiating Joint Magistrate of Sealdah, dated the 11th of January, 1887.

Mohun (1) cited in the notes to Mr. O'Kinealy's Penal Code, p. 122, referred to by the pleader making the application, mentioned that the case was a very old one and was not cited with approval by Mr. O'Kinealy.

The prisoner thereupon moved the High Court under the revisional sections of the Criminal Procedure Code, and obtained a rule calling on the Crown to show cause why the order of the Joint Magistrate should not be set aside.

The *Deputy Legal Remembrancer* (Mr. *Kilby*) for the Crown.

Baboo *Kishori Lal Sircar* for the prisoner contended that s. 182 did not apply, as no specific person was mentioned in the charge to the police, citing the Bombay case above referred to.

The order of the Court (PETHERAM, C.J., and BEVERLEY, J.) was delivered by

PETHERAM, C.J.—We think that this rule must be made absolute to set aside the conviction.

The facts of the case are that a person went on one occasion and informed the police that he had been robbed in the street of a shawl, but in the statement which he made to the police he did not indicate any particular person or describe any person in such a way as by any possibility could be supposed to implicate any one as the person who committed the robbery. All he said was that he was robbed by a person whom he did not see, so that in the statement that he made he did not say anything to cast suspicion on any one in particular. Under these circumstances, there was no offence within the meaning of s. 182 of the Penal Code. That section provides that if any person gives any information to a public servant with the intention of inducing him to put his powers in force to the injury or annoyance of any person, or to do or omit anything which such public servant would not have done or omitted to do if the true state of facts respecting which such information was given had been known to him, shall be punished in a certain way there specified.

As it seems to us, that section must be read as a whole, and, taken as a whole, we think it applies to those cases in which

(1) Unreported.

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the police are induced, upon the information supplied to them, to do or omit to do something which might affect some third person, and which they would not have done if they had known the true state of things.

Upon the information which was given to these police constables, all that they could be justified in doing was to examine the informant as to what had happened to him, and then make such enquiries as the result of that examination might render desirable, but they would have no right to interfere with any one or search any one's house, because there were no circumstances brought to their knowledge by the information which this man gave, which entitled them to suppose that any particular individual was guilty of any offence. Under the circumstances the most that the statement of the accused amounts to is, that it was untrue and was made for the purpose of hoaxing the police. No doubt that is a very wrong thing for any man to do. In the first place it is wrong to tell lies, and in the second place it is extremely wrong to take up the time of Government servants by putting them to useless enquiries under circumstances of this kind; but I do not think myself that such conduct comes within the meaning of this section, or amounts to anything more than a hoax, for which no punishment is provided by the Code. Under these circumstances we cannot make a crime when it is not made one by the Code or provide a punishment for it.

The rule will therefore be made absolute to set aside the conviction; the prisoner will be discharged.

T. A. P.

Rule absolute.

APPELLATE CIVIL.

Before Mr. Justice Prinsep and Mr. Justice Agnew.

1886
 December 22.

FA NINDRO DEB RAIKUT (JUDGMENT-DEBTOR) v. RANI JUGUDISH WARI
 DABI (DECREE-HOLDER).*

Execution of decree—Decree against executors for debts incurred while acting under a will afterwards found invalid, Effect of—The heir's liability under the decree—The remedy of the decree-holder.

Certain executors, acting under an order of the Court, borrowed a sum of money from *K. M.* for the funeral expenses of *J. D.* the testator. *K. M.*

* Appeal from Order No. 216 of 1886, against the order of (A. J. B. T. Dalton, Esq., Subordinate Judge of Jalpaiguri, dated the 20th of May, 1886.