

REVISIONAL CIVIL.

1909
February 12.*Before Mr. Justice Karamat Husain.*

WAZIR MUHAMMAD AND ANOTHER (OPPOSITE PARTIES) v.

HUB LAL (APPLICANT.) *

Criminal Procedure Code (Act V of 1898), section 195 (7)(c)—Sanction to prosecute—Granted by Collector—Set aside by District Judge—Jurisdiction.

Where a Collector granted sanction for prosecution for perjury in a case in which no appeal lay, and the District Judge revoked the sanction, held that under clause (c) of sub-section 7 of section 195 of the Code of Criminal Procedure, the District Judge, as being the principal court of original jurisdiction, had jurisdiction to revoke the sanction.

THIS was an application for revision on the civil side of the High Court against an order revoking a sanction granted for the prosecution of one Hub Lal. The facts of the case appear from the judgment of the Court.

Babu Satya Chandra Mukerji, for the applicant.

Dr. Tej Bahadur Sapru, for the opposite party.

KARAMAT HUSAIN, J.—A suit for arrears of rent of a sum below Rs. 100 was instituted in the court of an Assistant Collector of the 2nd class and was decreed. Hub Lal patwari was a witness for the plaintiff. There was an appeal under section 176 of the Agra Tenancy Act to the Collector who dismissed the suit and granted sanction for the prosecution of Hub Lal under sections 193, 465, 471 and 466, Indian Penal Code, on the 9th of September 1907. Hub Lal applied in revision to the District Judge of Cawnpore, who on the 6th of March 1908, revoked the sanction. Wazir Muhammad and Amir Muhammad now apply for revision of the order passed by the learned District Judge. Their learned vakil argues that the learned District Judge had no jurisdiction to revoke the sanction granted by the Collector of Fatehpur inasmuch as the court of the District Judge of Cawnpore is not a court to which the court of the Collector of Fatehpur is subordinate for the purposes of section 195 of the Criminal Procedure Code. Clause (7) of that section runs as follows:—“For the purposes of this section every court shall be deemed to be subordinate only to the court to which appeals from the former court ordinarily lie, that is to say—(a) where such appeals lie to more

* Civil Revision No. 541 of 1908 from an order of J. H. Cumming, District Judge of Cawnpore, dated the 6th of March 1908.

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than one court, the appellate court of inferior jurisdiction shall be the court to which such court shall be deemed to be subordinate ;

(b) Where such appeals lie to a civil and also to a revenue court, such court shall be deemed to be subordinate to the civil or revenue court according to the nature of the case in connection with which the offence is alleged to have been committed ;

(c) Where no appeal lies, such court shall be deemed to be subordinate to the principal court of original jurisdiction within the local limits of whose jurisdiction such first mentioned court is situate."

In the present case which was decided by the Collector of Fatehpur, there is no appeal from his order to any court. The case will therefore be governed by clause 7 (c), section 195. Mr. Satya Chandra contends that that clause is applicable to a Court of Small Causes from the orders of which there is no appeal to any court. The learned advocate for Hub Lal, on the other hand, contends that the application of that clause is not limited to the Court of Small Causes but extends to all courts when their orders are not appealable. I am of opinion that the clause is not limited to the Court of Small Causes but applies to every court, when there is no appeal from its decision. The finality of the decision of the court with reference to the nature of the case and not with reference to the constitution of the court is the element which determines subordination. If I hold that the clause applies to the Court of Small Causes only, many offences committed before other courts in cases in which there is no appeal from their orders, will be unpunishable and the safeguard provided by section 195 of the Code of Criminal Procedure against the contempt of the lawful authority of public servants will lose much of its beneficial effects. I therefore hold that the Collector of Fatehpur, with reference to the nature of the case in connection with which the offence was committed, was subordinate to the District Judge of Cawnpore and dismiss the application.

Application rejected.