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IN THE
MATTER OF
THE PETITION
OF NAND
KISHORE.

referring to the payment was inserted in the judgment. It in no way affects the judgment, nor could it in any way be regarded as *res judicata* so far as the rent was concerned for which the suit had been brought. Lest, however, there may be any misapprehension, we think it desirable to omit from the judgment altogether the words to which objection is taken. We accordingly direct that the words, "this payment it is found satisfied the rent payable up to the end of 1314F." be struck out. As the applicant has substantially failed, he must pay the costs of the application.

Application for review dismissed.

REVISIONAL CRIMINAL.

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November 3.

Before Mr. Justice Sir George Knox and Mr. Justice Karamat Husain.

EMPEROR v. GHANSHAM SINGH.*

Criminal Procedure Code, section 195, clauses (1) (c), and (3)—Sanction to prosecute—Abetment of offences of forgery and personation committed not in the course of judicial proceedings.

The offence or offences in which section 195, clause (1), sub-clause (c), read with clause (3) of the Code of Criminal Procedure requires that sanction should be given by a court with respect of documents produced in Court must be offences committed by parties to the proceeding, whether the offence be one of the substantive offences described in section 463 or punishable under sections 471, 475 or 476 of the Indian Penal Code or only amounts to abetment of any such offences.

THE facts of this case were as follows:—

One Mare Lal was a resident of the district of Muzaffarnagar, and Muhammad Hashim was a Hakim practising in Meerut. Muhammad Hashim and his wife, Musammat Amatunain, owed some money to Mare Lal. In settlement of the debt, Mare Lal and his debtors entered into an agreement that Muhammad Hashim's wife should execute a sale-deed in respect of her property in favour of Mare Lal. In pursuance of that agreement Muhammad Hashim one day came to Mare Lal, accompanied by a woman who was represented by Muhammad Hashim to be his wife, and they all went to the Sub-Registrar's office to get the sale-deed registered. Later on Mare Lal coming to know of the facts filed a complaint against Muhammad

*Criminal Revision No. 386 of 1909, from an order of Ahmad Ali, Additional Sessions Judge of Meerut, dated the 16th of July 1909.

Hashim, charging him with cheating. After that Muhammad Hashim also brought a complaint against Mare Lal for forging a sale-deed purporting to have been executed by his wife in favour of Mare Lal. The sale-deed was produced at the enquiry of both these cases. Hashim's complaint was dismissed. But in Mare Lal's complaint Hashim was sentenced to seven years' rigorous imprisonment by the Additional Sessions Judge of Meerut. At the inquiry before the Deputy Magistrate and also at the trial before the Additional Sessions Judge it was suggested that Muhammad Hashim was only a tool in the hands of Ghansham Singh, an enemy of Mare Lal. Mare Lal thereupon instituted a complaint against Chaudhri Ghansham Singh for abetment of an offence of forgery for which Hashim had been convicted and also for abetment of a false complaint brought against him by Hashim. The District Magistrate transferred the case to a Deputy Magistrate for trial. Ghansham Singh objected as to the legality of the proceedings on the ground that the offence could not be taken cognizance of without previous sanction of the Additional Sessions Judge before whom the principal offender had been tried and convicted. The Deputy Magistrate postponed the case and gave Ghansham Singh opportunity to apply to the Sessions Judge, who rejected his application, holding that the case could be proceeded against him without any sanction. Ghansham Singh therefore applied to the High Court in revision.

Mr. C. C. Dillon (with him Babu Satya Chandra Mukerji and Babu Surendra Nath Sen), for the applicant contended with reference to section 195 of the Criminal Procedure Code, 1898, that the objects of the Legislature in enacting that section were two-fold (1) to afford protection of the Court to certain class of persons in respect of certain offences; (2) to prevent baseless prosecutions from being started. There was a distinction between sections 195 and 476, and it was submitted that under section 476 of the Code the Court could itself punish offenders for contempt of Court, and under 195 it could delegate its authority to a private person. The circumstances under which the Court could exercise its authority under section 476, were similar to those under which sanction might be granted under section 195. In order that

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the Court may exercise its right under section 476, there must be (1) a judicial proceeding, (2) the offence committed must be one specified in section 195, and (3) the offence must be committed before the Court or brought under its notice. It was submitted that all these essentials were present in the present case, and the Court, if it chose, could exercise its power under section 476, or delegate its powers to Mare Lal under section 195. Clause (c) of sub-section 1 of section 195, no doubt laid down that the offence should have been committed by a party to a proceeding in any Court, but this clause read with sub-section 3, amplified the scope. Sub-section 3 provided also for the abetment of the offence, specified in the sub-section, but it did not say that the abettor should be a party to the proceedings against the principal offender. The wording of the sub-section was sufficiently wide to include abetment outside the Court. The Counsel based his argument on the following authorities:—*Abdul Khadar v. Meera Saheb* (1), *In re Devji valad Bhavani* (2), *Queen-Empress v. Abdul Kadar* (3), *Chandra Mohan Banerji v. Balfour* (4), *In re Bal Gangadhar Tilak* (5), *Profulla Chandra Sen v. Emperor* (6), *Giridhari Marwari v. Emperor* (7) and *Umrao Singh v. King-Emperor* (8).

Mr. G. P. Boys, for the opposite party, submitted that clause (c) of sub-section 1 of section 195 clearly limited the person privileged under section 195 to the party to any proceedings. An abettor who was not a party to the proceedings could not take that benefit of the section. The effect of sub-section 3 was only to include a subordinate offence and not to extend the benefit of the section to a person who was not a party to the proceedings. He relied on *Eadara Viran v. The Queen* (9) and *John Martin Sequiera v. Luja Bai* (10).

Mr. C. C. Dillon replied.

KNOX and KARAMAT HUSAIN, JJ. :—The facts out of which this application arises, so far as they are necessary for the determination of the point which we have to consider, can be very briefly stated.

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| (1) (1892) I. L. R., 15 Mad., 224. | (6) (1903) I. L. R., 30 Calc., 905. |
| (2) (1893) I. L. R., 18 Bom., 581. | (7) (1908) 12 C. W. N., 822. |
| (3) (1896) I. L. R., 20 Mad., 8. | (8) (1909) 6 A. L. J., 296. |
| (4) (1899) I. L. R., 26 Calc., 359. | (9) (1881) I. L. R., 3 Mad., 400. |
| (5) (1902) I. L. R., 26 Bom., 786. | (10) (1901) I. L. R., 26 Mad., 671. |

One Muhammad Hashim has been convicted of the offence of forging a sale-deed and sentenced to seven years' rigorous imprisonment. The principal witness against Muhammad Hashim and the complainant in the case was one Mare Lal. The same Mare Lal has now instituted a complaint against Ghansham Singh for abetment of the forgery of which Muhammad Hashim was convicted. Ghansham Singh took an early opportunity after he appeared in Court of objecting to the jurisdiction of the Court which was holding the inquiry and said that the Magistrate could not take cognizance of the complaint without the sanction of the Additional Sessions Judge in whose Court Muhammad Hashim was tried and in whose Court at that trial the forged sale-deed was produced. It is admitted on both sides that neither Muhammad Hashim nor Ghansham Singh were parties to any proceeding in any Court in respect of the sale-deed. That being so, there was no need of sanction to be given by the Additional Sessions Judge. The offence or offences in which section 195, clause (1), sub-clause (c), read with clause (3), requires that sanction should be given by a Court with respect to documents produced in court must be offences committed by parties to the proceeding, whether the offence be one of the substantive offences described in section 463 or punishable under sections 471, 475 or 476 of the Indian Penal Code or only amounts to abetment of any such offences. We are satisfied that this is the right construction to put upon the words used in section 195, clauses (1) (c) and (3). The view taken by the learned Additional Sessions Judge on this point was a correct view. We see no cause to interfere and direct that the record be returned.

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