

## REVISIONAL CRIMINAL.

1912.  
July, 18.

Before Mr. Justice Sir George Knox.  
EMPEROR v. LALTA PRASAD.\*

*Criminal Procedure Code, section 195 (c)—Sanction to prosecute—Forgery—Offence alleged not in connection with any proceeding before any Court—Sanction unnecessary.*

By section 195, clause (c), of the Code of Criminal Procedure courts are prohibited from taking cognizance of an offence described in section 463 of the Indian Penal Code, when such offence has been committed by a party to any proceeding in any court in respect to a document produced or given in evidence in any such proceeding. The section does not remove from the cognizance of criminal courts an offence described in section 463 when such an offence has been committed by an ordinary individual. So long as the prosecution is confined to offences connected with a document committed prior to its production in court, such prosecution is within the law and requires no sanction.

The facts were as follows :—

Lalta Prasad applied for compulsory registration of a sale-deed in his favour. The deed was registered on the 8th of September, 1911. It was afterwards discovered that certain entries in the deed had been tampered with prior to the registration. The Registrar brought the matter to the notice of the District Magistrate, who passed the order :—“ There is a strong *prima facie* case of forgery. I direct prosecution of Lalta Prasad.....”. Proceedings were commenced. Before this a civil suit was brought by the executant of this deed against Lalta Prasad for declaration that the deed as registered was forged. An application was then made to the criminal court for staying its proceedings pending the decision of the civil court. It was refused and some evidence for the prosecution was taken. Lalta Prasad then applied in the High Court for revision of the order of the District Magistrate directing the prosecution.

*Munshi Gulzari Lal* (Mr. C. Ross Atston with him), for the applicant :—

The prosecution is bad in law. It contravenes the provisions of section 195 (c) of the Criminal Procedure Code. A proceeding in respect of the document alleged to have been forged is pending in the civil court, and Lalta Prasad is a party to that proceeding. Hence, no criminal court can take cognizance of the

\* Criminal Revision No. 374 of 1912 from an order of P. U. Allen, District Magistrate of Bareilly, dated the 16th of February, 1912.

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offence of forgery alleged to have been committed by Lalta Prasad in respect of that document except with the sanction or on the complaint of that civil court or some other court to which it is subordinate. The District Magistrate had no jurisdiction to sanction or direct the prosecution. To hold otherwise would be to very much limit the operation of section 195 (c). No such limitation appears in the section itself. Then, no charge has yet been framed, and it is not known whether the charge against the applicant will be one of forgery or of uttering a forged document. The latter charge can, at all events, not be taken cognizance of without the sanction of the court in which the forged document is produced.

The Assistant Government Advocate (Mr. R. Malcomson), for the Crown, was not called upon.

KNOX, J.—A forgery is alleged to have been committed with reference to deed of sale. From the deed it would appear that if a forgery was committed it was committed on or about the 8th of September, 1911. At that time no proceedings were pending with reference to this particular document. The District Magistrate of Bareilly has, by an order, dated the 16th of February, 1912, directed the prosecution of Lalta Prasad for forgery and made the case over to one Mr. Karar Husain, for hearing. An objection is raised to this order based upon section 195, clause (c), of the Code of Criminal Procedure.

It is true that the Magistrate has not stated under what section he has directed the prosecution, but a prosecution for forgery would ordinarily run under section 463 of the Indian Penal Code. As I read section 195, clause (c), courts are prohibited from taking cognizance of an offence described in section 463 when such offence has been committed by a party to any proceeding in any court in respect to a document produced or given in evidence in any such proceeding. The section does not remove from the cognizance of Criminal Courts an offence described in section 463 when such an offence has been committed by an ordinary individual. Suppose, for instance, this very document had never been put into the civil court and suppose further that it is a forgery—is the person who forged it to be free from all prosecution? I do not by this mean to say that I have any reason for saying this document is a forged document, I know nothing about

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it. As long as the prosecution is confined to offences connected with this document committed prior to its production in court, such prosecution is within the law and requires no sanction. Sanction is required for offences committed by a party to a proceeding in any court, in respect to a document produced or given in evidence in such proceeding.

I find no reason for interfering and dismiss the application.

*Application dismissed.*

## APPELLATE CIVIL.

1912,  
July, 25.

*Before Sir Henry Richards, Knight, Chief Justice, and Mr. Justice Banerji.*  
NARAIN DAS AND ANOTHER (PLAINTIFFS) v. THE EAST INDIAN RAILWAY COMPANY (DEFENDANT).\*

*Act No. IX of 1890 (Indian Railways Act), section 75—Goods referred to in section 75 consigned on a "risk note"—Railway Company not liable for loss.*

Where a person chooses to send goods referred to in section 75 of the Indian Railways Act on a "risk note" form instead of declaring them and paying the extra percentage demandable under the terms of the section he cannot hold the Railway Company by which such goods are sent responsible for the loss thereof.

In this case the plaintiffs or their agents consigned certain bars of silver for delivery at Allahabad to the Great Indian Peninsula Railway Company at Bombay. The box was delivered intact at Jubbulpore to the East Indian Railway Company, but when it was delivered at Allahabad one of the bars, valued at over Rs. 2,000, was missing. The box was sent on a risk note form and the plaintiffs did not pay the extra percentage provided for by section 75 of the Indian Railways Act, 1890. The plaintiffs sued the East Indian Railway Company for compensation and obtained a decree from the Subordinate Judge of Allahabad. On appeal, however, this decree was reversed by the District Judge and the plaintiffs' suit dismissed. The plaintiffs appealed to the High Court.

Dr. Satish Chandra Banerji and Munshi Damodur Das, for the appellants.

Mr. B. E. O'Connor and Pandit Laddi Prasad Zutshi, for the respondents.

\* Second Appeal No. 256 of 1912 from a decree of H. E. Holme, District Judge of Allahabad, dated the 6th of December, 1911, reversing a decree of Guru Prasad Duba, Subordinate Judge of Allahabad, dated the 19th of June, 1911.