

APPELLATE CRIMINAL.

1915
April 30.

Before Mr. Justice Piggott.

RAM RAJA DAT v. SHEO DAYAL, *

*Criminal Procedure Code, section 195, clause (6)—Sanction to prosecute—
Power of appellate court.*

An application under section 195, clause (6), of the Code of Criminal Procedure stands on a different footing from an application in revision and is analogous to an appeal. The intention of the legislature is that a court of superior jurisdiction whose jurisdiction is invoked under the above section should consider the entire matter on the merits upon a complete review of all the facts.

This was an application under section 195, clause (6) of the Criminal Procedure Code. The facts will appear from the judgment.

Mr. R. K. Sorabji, for the applicant.

Babu Peary Lal Banerji and Pandit Krishna Narain Laghate, for the opposite party.

PIGGOTT, J.—This is an application under the sixth clause of section 195 of the Code of Criminal Procedure, asking this court to revoke an order passed by the Sessions Judge of Banda, sanctioning the prosecution of one Ram Raja Dat for having committed the offence of giving false evidence in a deposition made by him on the 12th of August, 1914, in the court of a Magistrate subordinate to that court. The case came before the Sessions Judge in appeal, and hence he has dealt with the application for sanction. He was fully empowered to do so; but it is worth noticing that the evidence given by Ram Raja Dat was believed and acted upon by the Magistrate who heard it. I wish also to note that I look upon an application under section 195, clause (6), as standing on a very different footing from an application in revision. The right conferred by the clause abovementioned may not be exactly a right of appeal; but it is strongly analogous to such right. I think the legislature intended that a court of superior jurisdiction whose jurisdiction was invoked under section 195, clause (6), of the Code of Criminal Procedure, should reconsider the entire matter on the merits and while allowing all reasonable weight to the opinion of the court below, should nevertheless reconsider the question of the propriety of the order

* Criminal Appeal No. 275 of 1915, from an order of Banke Behari Lal, Sessions Judge of Banda, dated the 27th of February, 1915.

1915

JAM RATA
DAT
v.
SHEO DAYAL.

of sanction on its merits, upon a complete review of the entire facts. The proceedings out of which the matter now before me has arisen have been of considerable duration and occupied the attention of several courts.

[The judgement then proceeds to discuss fully the facts and the evidence.]

I do not think this is a suitable case for a prosecution and I revoke the order of sanction passed by the court below.

Sanction revoked.

APPELLATE CIVIL.

Before Mr. Justice Channier and Mr. Justice Pigott.

BINDA PRASAD (OPPOSITE PARTY) v. RAGHUBIR SARAN AND OTHERS
(APPLICANTS)*

*Civil Procedure Code (1903), Order XLVII, rule 1—Review of judgement—
Adducing of further evidence not sufficient ground.*

An application was made to a District Judge for a review of his order that a certain property was not the property of an insolvent. The ground upon which the application was in substance made was that if another opportunity was given to the applicants they would satisfy the court that its former order was wrong. *Held*, that this was not a 'sufficient reason' for entertaining the application within the meaning of Order XLVII, rule 1 of the Civil Procedure Code.

THE facts of this case were as follows:—

In the course of certain insolvency proceedings the receiver took possession of a brick-kiln as being the property of the insolvent, Abdul Haq. The appellant filed an objection claiming a half-share as originally belonging to him as a partner of Abdul Haq and the other half-share as having been purchased by him from Abdul Haq more than three months prior to the application in insolvency. Security was furnished and the court ordered the sale of the kiln to be stayed. The respondents, who were two of the creditors, filed an application calling in question the sufficiency of the security, and asserting that the purchase by the appellant was fraudulent, and that he had no title to any part of the brick-kiln. On the 21st of January, 1915, the court released the kiln from attachment, finding that the appellant was

*First Appeal No. 27 of 1915, from an order of L. Johnston, District Judge of Meerut, dated the 10th of February, 1915.