

## REVISIONAL CRIMINAL.

*Before Mr. Justice Martineau.*

PANNA LAL—*Petitioner,*

*versus*

THE CROWN—*Respondent,*

Criminal Revision No. 852 of 1919.

Feb. 11.

*Indian Penal Code, 1860, section 182—giving false information to the Deputy Superintendent of Police in the course of a departmental inquiry in reply to questions.*

The Petitioner sent a letter to the Deputy Inspector-General of Police alleging that the Sub-Inspector of Sadhaura and other persons were looting the people and that he was ready to prove it. This was sent on to the Superintendent of Police for recording the petitioner's statement and for necessary action, and the Superintendent passed it on to the Deputy Superintendent for taking statements. The latter recorded the statement of the petitioner, who made allegations as to bribes having been taken by the Sub-Inspector, and mentioned among others a bribe of Rs. 500 taken from one M. S. In respect of this statement the petitioner was convicted by the Lower Courts of an offence under section 182 of the Penal Code.

*Held*, that the statement of the petitioner to the Deputy Superintendent of Police in the departmental enquiry was "information" within the meaning of section 182 of the Penal Code, notwithstanding that it was made in answer to questions.

*Queen Empress v. Ranji Sajubarao* (1), followed.

*Mangu v. Crown* (2), distinguished and partly disapproved.

*Chinna Ramana v. Emperor* (3), distinguished.

*Rayan Kutti v. Emperor* (4), referred to.

*Held* also, that as the Deputy Superintendent of Police was competent to make an inquiry into the Petitioner's allegations against the Sub-Inspector, and the Petitioner knew that his allegations were likely to lead the Deputy Superintendent to make such an inquiry, which would be calculated to cause annoyance to the Sub-Inspector, his conviction under section 182 was justified.

*Queen v. Jериannan* (5), distinguished.

(2) 1885) I. L. R. 10 Bom. 124.

(3) (1908) I. L. R. 31 Mad. 506.

1) 227 P. L. R. 1914.

(4) (1908) I. L. R. 26 Mad. 640.

(5) (1881) I. L. R. 4 Mad. 241.

*Revision from the order of Lieutenant-Colonel A. A. Irvine, Sessions Judge, Ambala, dated the 25th March 1919, confirming that of E. R. Abbott, Esquire, District Magistrate, Ambala, dated the 9th January 1919, convicting the Petitioner.*

TEK CHAND, for petitioner.

*Nemo*, for Respondent.

MARTINEAU, J.—The petitioner Panna Lal, a Municipal Commissioner of Sadhaura, in the Ambala District, has been convicted of an offence under section 182, Indian Penal Code.

On the 20th November 1917 he wrote a letter to the Deputy Inspector-General of Police, in which he said that the Sub-Inspector of Sadbaura and other persons were looting the people and that he was ready to prove this to the Deputy Inspector-General and the Superintendent. The Deputy Inspector-General forwarded the letter to the Superintendent of Police for recording Panna Lal's statement and for necessary action, and the Superintendent passed it on to the Deputy Superintendent, Khan Sahib Khan Ahmad Khan, for taking statements. The Deputy Superintendent on the 13th December recorded the statement of Panna Lal who made allegations as to bribes having been taken by the Sub-Inspector, and mentioned among others a bribe of Rs. 500 taken from one Mitar Sain. It is in respect of this last statement that the petitioner has been convicted, the Courts below finding that the information as to the Sub-Inspector having taken a bribe from Mitar Sain was false, that the petitioner believed it to be false, and that by giving that information he intended to induce the Deputy Superintendent of Police to use his lawful power to the injury of the Sub-Inspector.

The case has been carefully considered by the learned Sessions Judge, and I see no reason to differ from his findings on the facts, namely, that the petitioner's statement as to the Sub-Inspector having received a bribe from Mitar Sain was false, and that the petitioner believed it to be false. It is contended that the Sessions Judge was wrong in ignoring evidence as to other bribes alleged to have been taken by the Sub-Inspector, but I entirely agree with the learned Judge that such evidence is irrelevant in this case, which is

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confined to the matter of the bribes said to have been given by Mitar Sain.

The question arising for consideration is whether the petitioner is entitled to be acquitted either (1) because the statement which he made to the Deputy Superintendent in regard to the bribe was not volunteered, but was made in answer to questions, or (2) because the Deputy Superintendent had no power to take action against the Sub-Inspector on the statement made to him, but had authority only to record statements.

With regard to the first point the learned Counsel for petitioner relies on *Mangu v. Crown* (1), in which it was held that the term "information" in section 182 of the Indian Penal Code means information that is volunteered, and is not intended to apply to a statement made in answer to questions put by a public servant.

Now in the first place it is to be observed that the statements which had been made in that case were made to a police officer in an investigation under the Criminal Procedure Code, and the learned Sessions Judge has rightly held that the ruling is on that account inapplicable, as a witness examined by a police officer under section 161 of the Criminal Procedure Code is bound to answer the questions put to him, whereas in the present case Panna Lal was not bound to make a statement when questioned by the Deputy Superintendent, who was making only a departmental inquiry and not an inquiry under the provisions of the Code.

In the second place with all respect for the opinion of the learned Judge who decided the case cited above from the Punjab Law Reporter, I am unable to agree with his construction of the term "information" in section 182 of the Indian Penal Code. He points out that a person is not liable to be prosecuted for perjury for having made a false statement to the police, and he argues that as section 162 of the Criminal Procedure Code provides that the statement, if taken down in writing, cannot be used as evidence it would be an evasion of the law if the statement could be made the basis of a charge under section 182 of the Indian Penal Code.

The fact that a person cannot be held guilty of perjury for making false statement when questioned by a police officer under section 161 of the Criminal Procedure Code appears to me to be no reason for holding that he cannot be convicted of an offence under section 182 of the Indian Penal Code in respect of that statement, if it is shown that he made the statement with the intention or knowledge mentioned in the section. As regards section 162 of the Criminal Procedure Code, the proviso to the section makes it clear that the prohibition against using the statement recorded by the investigating officer as evidence applies only to the use of the statement as evidence in the case in the investigation of which the statement was made. There is nothing to prevent the statement from being used as the basis of a charge under section 182 of the Indian Penal Code against the person who made it.

*Chinna Ramana v. Emperor* (1) has been cited, in which it was held that a statement made under section 162 of the Criminal Procedure Code in answer to questions put by a police officer cannot be made the basis of a prosecution under section 211, Indian Penal Code. But from this it would not follow that the person making the statement could not be convicted of an offence under section 182, for, as is pointed out in *Rayan Kutti v. Emperor* (2), there is a clear distinction between making a false charge which is the offence dealt with in section 211 and giving false information.

In *Queen-Empress v. Ramji Sajabarao* (3), it was held that any false information given to a public servant with the intention mentioned in section 182, Indian Penal Code, is punishable under that section whether the information is volunteered by the informant or given in answer to questions put to him. This is in my opinion a correct view of the law, there being nothing in the section itself to show that the word "information" was meant to be restricted to information that is volunteered.

I come now to the second point which relates to the question of intention and knowledge. Mr. Tek

(1) (1908) I. L. R. 31 Mad. 506. (2) (1903) I L. R. 23 Mrd. 640.

(3) (1885) I. L. R. 10 Bom, 124.

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Chand relies on *Queen v. Periannan* (1), in which it was held that section 182 of the Indian Penal Code does not apply where the public servant misinformed is only competent to pass on the information, and the powers to be exercised by him cannot tend to any direct or immediate prejudice of the person against whom the information is levelled. That case is, however, distinguishable from the present one. The authority of the Deputy Superintendent of Police was not limited to passing on to the Superintendent the information which the petitioner gave him. He had power to record statements and on being told by the petitioner that Mitar Sain had given a bribe to the Sub-Inspector he was competent to take the statements of Mitar Sain and the Sub-Inspector and of the persons mentioned by the petitioner as having knowledge about the matter. It would in fact have been natural for him to make such an inquiry, and whatever the petitioner may have intended it cannot be doubted that he knew it to be likely that his allegations about the bribes would lead the Deputy Superintendent to make an inquiry into the matter.

Even if it can be said that in making such an inquiry the Deputy Superintendent would not have been using his power to the injury of the Sub-Inspector (since "injury," as defined in section 44 of the Indian Penal Code, results only when harm is caused illegally) the inquiry was certainly calculated to cause annoyance to the Sub-Inspector, and this is sufficient to justify the conviction. The petitioner by giving to the Deputy Superintendent information which was false and which he believed to be such, knowing it to be likely that he would thereby cause the Deputy Superintendent to use his lawful power to the annoyance of the Sub-Inspector of Sadhaura, committed an offence under section 182 of the Indian Penal Code.

I accordingly dismiss the application.

*Revision dismissed.*