

CRIMINAL APPELLATE.

Before Mr. Justice Marten and Mr. Justice Crump.

1922.

EMPEROR v. AHILYA MANAJI*.

June 6.

Evidence—Certificate of Professor of Anatomy—Proof of certificate—Professor granting certificate should be called as a witness.

A certificate from the Professor of Anatomy at the Grant Medical College in Bombay, as to certain bones submitted to him for examination, is not *per se* admissible in evidence, but must be proved by calling the Professor as a witness.

APPEALS from convictions and sentences passed by R. S. Broomfield, Sessions Judge of Ahmednagar.

The two accused were tried for the offence of murdering one Rupchand. At the trial, some clothes belonging to the deceased were produced; and also a human skull, teeth and some bones. The clothes were submitted to the chemical analyser to the Government of Bombay for examination of blood-stains on them. The bones, &c., were sent for examination to the Professor of Anatomy at the Grant Medical College in Bombay. The report of the former was that the clothes were stained with human blood. The latter reported: "The bones are those of a human male of about middle age". Both the reports were allowed to go into evidence in the deposition of the Sub-Assistant Surgeon. The trying Judge relied on them, convicted the accused, and sentenced them to death.

The accused appealed to the High Court. The convictions and sentences were also before the High Court for confirmation.

W. B. Pradhan, for accused No. 1.

*Criminal Confirmation Case No. 9 of 1922; Criminal Appeals Nos. 218 and 219 of 1922.

S. R. Gokhale, for accused No. 2.

S. S. Patkar, Government Pleader, for the Crown.

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MARTEN, J.:—[His Lordship after setting out the facts of the cases proceeded.—] My learned brother raised one point on the evidence which is none the less valuable because it is technical. I refer to the certificate, which was admitted in evidence, of the Professor of Anatomy at the Grant Medical College as to the bones. That is Exhibit 36 and it is referred to by the learned Sessions Judge at page 49 line 35 of his judgment. The technical point is whether that certificate as such is admissible in evidence. What took place is this: that certain articles which were found in the place I mentioned such as sack, dhoti, rags, gunny bag, &c., were sent to the Chemical Analyser. The Chemical Analyser was not called but merely his certificate was put in. That is correct. The person who was called was the Sub-Assistant Surgeon and his evidence was: "The Sub-Inspector of Police, Akola, had sent to me some articles. They are all before the Court. All the articles except bones were sent to the Chemical Analyser, Bombay. The bones were sent to the Professor of Anatomy, Grant Medical College, Bombay. The certificates from these officers were received and they are these shown to me. The articles were also received back and were then sent by me to the Sub-Inspector of Police, Akola." There was no cross-examination of the Sub-Assistant Surgeon. The point is whether the certificate which he thus produced was evidence without the Professor of Anatomy being himself called. The Government Pleader has said that there is a High Court Circular giving directions in this class of cases that bones are to be sent to the Professor of Anatomy, Grant Medical College. That of course is a right and

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proper course, but the certificate of the Professor is not *per se* admissible in evidence apart from special authority like section 510 of the Code of Criminal Procedure. It seems to me then that without some special authority in that behalf a certificate from a third party like this is only hearsay evidence and is not admissible in the absence of any statutory authority. [His Lordship next dealt with the facts of the cases and confirmed the convictions and sentences. Crump J. delivered a separate judgment agreeing with the above order.]

Convictions and sentences confirmed.

R. R.

CRIMINAL REVISION

Before Mr. Justice Marten and Mr. Justice Crump.

In re SATYABODHA RAMCHANDRA ADABADDI.*

1922.

June 9.

Contempt of Court—High Court—Scandalous attack on the High Court—Jurisdiction to commit for contempt.

Scandalous attacks upon the integrity and impartiality of the High Court, made after it has delivered its judgment in a case, can be punished by the High Court as contempt.

THIS was a rule issued by the High Court calling upon the respondent to show cause why he should not be committed for contempt of Court.

The respondent edited a Kanarese weekly paper called "*Vijaya*" which was published at Dharwar.

At Dharwar, several persons were tried for riot, and convicted. They appealed to the High Court, with the result that the convictions and sentences passed were confirmed.

* Application for Revision, No. 103 of 1922.