

1902
MAY 27.

CRIMINAL
REVISION.

30 C. 418.

contend that it is, but he says that when he saw the petitioner and got the petitioner to repeat his statement on oath, that statement amounted to a complaint.

In our opinion the Magistrate was not justified in arbitrarily turning a departmental complaint into a criminal complaint. Moreover, if the Magistrate had been justified in taking the course that he did, he would still have been bound, if acting judicially, to have given the petitioner an opportunity of calling his witnesses and proving his allegations. He did not do so. We think, therefore, that his proceedings were not warranted by law.

We accordingly make the Rule absolute. The order for prosecution under section 211 is set aside.

30 C. 418 (=7 C. W. N. 116.)

[418] CRIMINAL REVISION.

JOWAHIR PATTAK v. PARBHOO AHIR.* [10th June, 1902.]

Criminal Intimidation—Threat to ruin another by cases—“Injury” —Penal Code (Act XLV of 1860) ss. 44, 503 and 506.

In order to convict a person of criminal intimidation under s. 506 of the Penal Code, it must be found that there was a threat by him to another person of injury to his person, reputation or property or to the person or reputation of any one in whom that person is interested.

Where the petitioner who threatened to ruin the complainant by cases was convicted of criminal intimidation under s. 506 of the Penal Code :

Held, that the conviction could not stand. Had the threat been to ruin the complainant by false cases, the offence of criminal intimidation would have been committed ; but as the threat was to ruin him by cases, it could not be assumed that by cases were meant false cases. If the cases were not false, the mere fact that they were instituted for the purpose of persecuting the complainant would not bring them within the definition of the term “injury.”

RULE granted to the petitioner, Jowahir Pattak.

This was a Rule calling upon the District Magistrate of Shahabad to show cause why the conviction of the petitioner under s. 506 of the Indian Penal Code should not be set aside on the ground that on the face of the judgment there was reason to doubt whether the conviction was warranted by law.

The petitioner and another desired the complainant, one Parbhoo Ahir, to sell them a cow, and, on his refusing to do so, they said they would ruin him with cases. On the 30th October 1901 the threat was followed up by a long report being sent to the Subdivisional Magistrate of Buxar accusing Parbhoo Ahir of bad livelihood ; but no action was taken on this report. Again on the 8th of January 1902 a petition was filed before the Magistrate against the complainant charging him with bad livelihood. The petitioner was thereupon convicted by the Subdivisional Magistrate under s. 506 of the Penal Code on the 19th February 1902, and sentenced to pay a fine of Rs. 40.

The report and the petition sent to the Magistrate were not made by the petitioner himself, but were connected by the [418] Magistrate who tried the case with the threats in respect of which the petitioner was convicted.

* Criminal Revision No. 306 of 1902, against the order passed by R. L. Ross, Esq., Subdivisional Magistrate of Buxar, dated the 19th February 1902.

Babu *Dwarka Nath Mitter* for the petitioner. In order to convict my client under s. 506 of the Penal Code, it is necessary to find that he threatened the complainant with injury to his person, reputation or property. The word "injury" is defined by s. 44 of the Penal Code and denotes any harm illegally caused. Here the threat has been to cause harm by institution of cases, which could not be said to be a threat to cause harm, illegally but a threat to cause harm through the intervention of the Courts of Justice: *Reg. v. Moroba Bhaskarji* (1).

1902
JUNE 10.
CRIMINAL
REVISION.

30 C. 418=7
C. W. N. 116.

STEVENS AND HENDERSON, J.J. The petitioner has been convicted under section 506 of the Indian Penal Code of the offence of criminal intimidation towards the complainant.

This Rule was granted to show cause why the conviction should not be set aside, on the ground that on the face of the judgment there was reason to doubt whether the conviction was warranted by law.

Briefly stated, the facts appear to be as follows:—The petitioner and another desired the complainant, who is found to have been at one time a person of bad livelihood, to sell them a cow, and, on his refusing to do so, they said that they would ruin him with cases. The threat was afterwards followed by a report and a petition to the Magistrate against the complainant charging him with bad livelihood. The report and the petition were not made by the present petitioner himself; but they have been connected by the Magistrate who tried this case with the threats in respect of which the petitioner has been convicted.

It seems to us that the Rule must be made absolute. According to the definition of criminal intimidation in section 503 of the Indian Penal Code there must be a threat to another person of injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested. The word "injury" is defined again in section 44 as denoting any harm whatever illegally caused to any person in body, mind, reputation or property. No doubt if the threat had been to ruin [420] the complainant by *false* cases, the offence of criminal intimidation would have been committed; but the threat was to ruin him by "cases," and it cannot be assumed that by "cases," were meant false cases. If the cases were not false, the mere fact that they were instituted for the purpose of persecuting the complainant would not bring them within the definition of the term "injury," because the harm, although caused from an improper motive, would not be caused illegally.

The Rule is therefore made absolute, the conviction and sentence are set aside, and the fine, if paid, must be refunded.

Rule made absolute.

30 C. 421 (=7 C. W. N. 27).

[421] CRIMINAL REVISION.

CHUNDR A COOMAR BISWAS v. CALCUTTA CORPORATION.*

[30th April, 1902].

Calcutta Municipal Act (Bengal III of 1899) ss. 502, 505—Human food, destruction of articles for—Purchase of damaged rice intending to sell it as food for pigs—Order for its destruction—Circumstances necessary to justify such order.

In order to justify an order under s. 505 of the Calcutta Municipal Act of 1899, the Magistrate must be satisfied, and there must be a finding in his

* Criminal Revision No. 240 of 1902.

(1) (1871) 8 Bom. H. C. R. (C. C.) 101.