

*Before Mr. Justice Norman and Mr. Justice E. Jackson.*

THE QUEEN v. NAWAB SING AND OTHERS (APPELLANTS.)

*Forgery of specially Registered Bond—Sanction to Prosecution.*

1869  
April 2.

A specially registered bond was presented before the Small Cause Court Judge, for execution, under section 53, Act XX of 1866, and a decree passed upon it in usual form. Subsequently the Registrar sanctioned the prosecution of the decree-holder, on the ground that the bond was a forgery. The Small Cause Court Judge thereupon, on application made, without taking any evidence or making further enquiry, set aside the decree and sanctioned the prosecution under section 170 of the Criminal Procedure Code.

*Held*, that he was justified in sanctioning the prosecution but not in setting aside the decree.

THE judgment of the Court contains a statement of the facts and was delivered by

NORMAN, J.—The prisoners have been tried and convicted by the Judge of Bhagulpore of the forgery of a bond for rupees 195, bearing date the 18th of October 1867, alleged to have been executed by Dhotal Mahton, Maharaj Mahton, and Musahib Mahton. They appeal. The bond was specially registered under section 52 of Act XX. of 1866; and on the 6th of August 1868, upon production of the bond and the record signed by the Registrar, the Judge of the Small Cause Court of Monghyr passed a decree against Dhotal and the others. On the 18th of December, the Judge of the Small Cause Court set aside the decree, and gave his sanction to the prosecution under section 170 of the Code of Criminal Procedure. On the same day, Mohan Sahu, the alleged obligee of the bond, prayed for a postponement, in order that his witnesses might attend. The Judge of the Small Cause Court, however, without passing any order on his petition, gave the required authority to prosecute, without going into evidence as to the genuineness of the bond.

On the whole, we think, he was justified in doing so. No enquiry had taken place in the Small Cause Court as to the execution of the bond. That was a matter which had been gone into before the Registrar, before whom the bond and agree-

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ment recorded by the Registrar were put in, proved, and authenticated. The bond was simply produced before the Small Cause Court Judge with the record of the agreement, and verified by the petitioner. When the Small Cause Court Judge found, that a full enquiry had been made by the Sub-Registrar; that the Registrar, to whom the proceedings of the Sub-Registrar had been transmitted for sanction of the prosecution under section 95 of the Registration Act, had come to the conclusion that the prisoners ought to be prosecuted for the forgery of the bond which had been put in and specially registered by the Sub-Registrar; that the Sub-Registrar had been giving evidence and assisting in the prosecution before the Magistrate; the Small Cause Court Judge, whose function in giving effect to the registered agreement by a decree and execution under section 53 of Act XX. of 1866 was merely ancillary to that of the Registrar recording the agreement, was fairly justified in sanctioning the prosecution without further enquiry. He was, no doubt, wrong in setting aside the decree in favor of the plaintiff, as he did, without going into evidence. He should have enquired as to any special circumstances which might have justified such an order under section 55 of Act XX. of 1866, but with that we have now nothing to do.

*Before Mr. Justice Norman and Mr. Justice E. Jackson,*

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IN RE QUEEN v. GOLAK SING AND OTHERS.\*

May 6.

*Perjury—Sanction to Prosecution.*

Sanction to a prosecution for perjury may be given by the Court before which the perjury was committed, at any time, even after the order for commitment to the Sessions has been made.

THE following is the letter of reference from the Sessions Judge, made, as directed, in Circular No. 7, dated June 2nd, 1864, under section 434, Act XXV. of 1861 :—

“ In a case of theft and abduction tried by me, as Sessions Judge, in September last, Golak Sing, Durgadas Sen, and Dinanath Dutt, police officers, appeared as witnesses for the pro-

\* Reference under section 434, Act XXV. of 1861.