

Appellate Jurisdiction (a)

Referred Small Cause Case No. 30 of 1868.

APPASAMY PATTAR..... *Plaintiff.*

P. E. GOVINEN NAMBIAR... .. *Defendant.*

A defendant in a suit summoned by and examined as a witness for the plaintiff is entitled to protection from arrest on civil process during the time reasonably occupied in going to, attending at, and returning from, the place of trial.

CASE stated under Section 22, Act XI of 1865, by the Judge of the Court of Small Causes of Tellicherry, in Suit No. 1,718 of 1868. 1868.
November 6.
R. C. No. 30
of 1868.

No Counsel were instructed.

The Court delivered the following

JUDGMENT:—The defendant in this case was summoned and examined as a witness for the plaintiff. The decree was for the plaintiff, and on his application immediate execution was issued against the defendant's person. The question which we have to decide is, whether the defendant, being in attendance as a witness, was entitled to protection from arrest.

The well established rule of English Law that a witness or party to a civil suit, whose attendance is required on a trial before a Judicial tribunal, is protected from arrest on civil process during the time reasonably occupied in going to, attending at, and returning from the place of trial, rests on a principle which applies with full force here, namely, that freedom from the fear of arrest encourages willing attendance and thus tends to the advancement of justice. It is therefore a sound rule to be acted upon by the Courts, and we think the present case comes within the rule.

The 18th Section of Act XI of 1865 only empowers Courts of Small Causes to issue a warrant against the person or moveable property of the judgment debtor on a verbal application immediately on the passing of a decree. As respects the execution of the warrant, the rights of the

(a) Present : Scotland, C. J. and Collett, J.

1863.
November 6.
R. A. No. 59
of 1863.

parties remain precisely the same as in the case of the issuing of a similar warrant on an ordinary written application for execution.

Our answer to the question submitted is that the defendant was entitled to the privilege of a reasonable time for his return home, and the arrest therefore was irregular.

Appellate Jurisdiction (a)

Criminal Regular Appeal No. 59 of 1868.

K. CHAPPU MENON.....Appellant.

An appeal lies against an order of the Session Court imposing a fine upon a witness under Section 228 of the Penal Code for intentional insult to the Session Judge sitting in a stage of a judicial proceeding.

Where the High Court were satisfied that the witness did not intend to insult the Judge the order was set aside.

1863.
November 6.
C. R. A. No.
59 of 1868.

THIS was an appeal against the sentence of G. R. Sharpe, the Session Judge of Calicut, in Case No. 19 of the calendar for 1868.

JUDGMENT:—The appellant in this case has been fined rupees 70 under Section 228 of the Penal Code for the offence of intentional insult to the Session Judge of Calicut when sitting in a stage of a judicial proceeding. The insult appears from the Court's order to have been "a derisive laugh" immediately on entering the witness box when about to be affirmed, and "pretended inability to articulate a single word," both then and when "a nasty question as to his antecedents was put in cross-examination," which threats of a fine removed.

The appellant at the time declared that he meant no insult, and that the manner observed by the Judge was owing to natural infirmity of articulation. But the Judge considered the excuse insufficient to account for the demeanour exhibited.

The question is whether there are good grounds for the belief that the Judge was led at the moment to form a mistaken impression of the man's intention from his

(a) Present : Scotland, C. J., and Ellis, J.