

27-7-99 ✓

Judicial (1895) Department.

ORDINARY MS.

G.O., No. 1219

Dated 10th June 1895

INDEXED.

[Despatch Abstract.]

AGAINST ACQUITTAL.

Stating, with remarks, that Government considers it unnecessary to prefer an appeal against the decision of the Stationary Sub-Magistrate, Chidambaram, South Arcot District, in calendar case No. 59 of 1895.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

Regs. no. 281
Magte

13th March 1895

From

A. R. Cunningham Esquire
Ag Head Assistant Magistrate
South Arcot

To

The District Magistrate
South Arcot.

Sir,

I have the honour to submit the following case for your consideration, with the request that if necessary a reference may be made to the High Court to set aside the order of acquittal passed by the 2nd class Magistrate of Ichidambaram in C. C. no. 59 of 1895 and to order a retrial.

The facts of the case are, briefly stated as follows:-

The wife of the accused died suddenly some time between the 10th and 11th November. On the morning of the 11th the village Munsiff knowing that the woman had been in perfect health the previous evening proceeded to the accused's house and instituted an enquiry. The accused informed him that his wife had died of heart disease. Not satisfied with the account the Munsiff called in the Police and the Hospital Assistant, the latter of whom

whose found that death was due to hanging.
The panchayat found that death was due
to suicide by hanging.

The Sub Magistrate found that the woman
undoubtedly committed suicide and that
the accused "told falsehood to the village
munsiff", but he has acquitted the accused
on the ground that the information did
not tend to cause injury or annoyance
to a 3rd person.

He has quoted two cases in support of his
view: (1) In the matter of the petition of
Gulam Ahmed Kazi, I. L. R. 104, 341, Vol. XIV
and (2) Queen versus Periamman I. L. R. 4,
Madras page 241.

It has been distinctly ruled in the case of
Queen versus Ganesh Khanderos and
Ganesh Dowlat I. L. R. 104, 341, Vol. XIV
in which the law laid down in this section
with all the previous rulings on the subject
including the two above mentioned has been
exhaustively dealt with, that under I. P. C.
Section 182, the giving of false information
to a public servant is penal when either
of two consequences is intended to be caused
or is known to be likely to be caused by
the false information; the first being the
causing the public servant "to use the
lawful power of such public servant
"to the injury or annoyance of any person",
and the second being the causing the public
servant

servant "to do or omit anything which
such public servant ought not to do or
omit, if the true state of facts respects
which such information is given were
known to him": further, that to constitute
an offence under the latter part of the
section it is not necessary to show that
the act done would be to the injury or
annoyance of any third person.

I contend that inasmuch as the accused
in falsely stating to the village munsiff
that his wife had died of heart disease
intended to cause or knew that he was
likely to cause the Village munsiff to
omit reporting the matter to the Police
as was his duty in any case of sudden
death or death under suspicious cir-
cumstances, he has committed an offence
under I. P. C. Sec. 182 and that the view
taken by the Sub Magistrate is wrong.

I make this reference on two grounds:-

(1) That the section as amended in Act III
of 1895 clearly shows that the view
taken by the Bombay High Court in
the case above quoted was the correct
view.

and (2) that in Madras case of the
Queen versus Periamman on which the
Sub Magistrate relies, the High Court,
as

The Sub Magistrate
acquitted the
accused on the
ground that the
information did
not tend to cause
injury or annoyance
to a 3rd person.

who pointed out on page 509 of volume XIII of the I.L.R. (Bombay Series) merely placed his interpretation on the words "to use his lawful powers" which occur in the first part of Section 182: the question whether the act done came within the language of the second part of the Section (as does the act in the present case) does not appear to have been raised or considered.

I have the honour to be
(Signed) A.R. Laxmaning
ag. Hd. Asst Magistrate.
/ True Copy /

Mundum
for ag. St. Magte.

SOUTH ARCOT.

DISTRICT MAGISTRATE'S OFFICE,

Camp Mammargudi

NO.

22nd April 1895.

FROM

A. C. Eastthrust Street Esquire

ag. DISTRICT MAGISTRATE OF SOUTH ARCOT.

TO

THE CHIEF SECRETARY,

TO GOVERNMENT

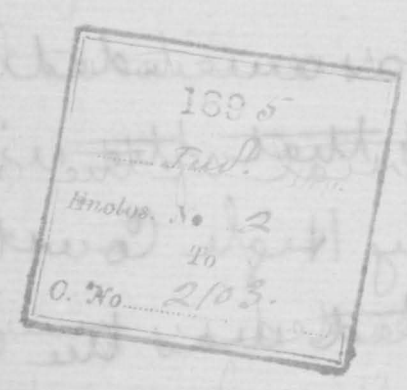
Judicial DEPARTMENT.

MADRAS.

SIR,

In submitting a copy of the Head Assistant Magistrate's reference dated 13th ultimo on Register no. 281^{Magte}, in which the case is fully discussed, I have the honour to request that Government may be pleased to order an appeal to be preferred to the High Court against the judgment of acquittal passed by the Stationary Sub Magistrate Chidambaram in C.C. no. 59 of 1895 on his file, in view to its being set aside and a retrial of the accused ordered.

2. The act of the accused in giving false information to the Village Magistrate of the Cause of his wife's sudden death clearly falls under the latter part of Section 182 I.P.C and it has been authoritatively laid down by the Bombay



Bombay High Court in Queen Empress
V. Ganesh Kanderas and Ganesh Daulat,
13 I.L.R., Bombay 506, that to constitute
an offence under the latter part of Section
182 I.P.C. it is not necessary that the act
complained of should have caused or was
liable to cause annoyance or injury to some
third person. The Court remarked as the public
officer is bound to act in the discharge of
his office in the proper circumstances, it
may often be interference with his duty,
and thus dangerous to public welfare
if through false information he is prevented
from acting, or induced to act wrongly.
In the present case the intention of the
accused in giving the false information
to the Village Magistrate was to induce him
to omit reporting the case to the Police,
by whom an enquiry would be made, in
which the accused evidently wished
to avoid. Such wilful interference
with the duties of public officers might
easily constitute a serious danger to the
public welfare and should not, I think,
be allowed to pass unpunished. The
judgment of the Stationary Sub Magis-
trate appears to have been based on
a wrong view of the law and is of
mischievous tendency. I am of opinion
therefore that it should not be allowed
to stand.

3. The Sub Magistrate in his judgment
cites the Bombay Case above referred
to but holds that it does not apply to
the present case, as the former "rested
on matters that brought it under
cheating or deceit" while in the latter
"the misinformation has no tinge
of deceit." This reasoning does not
appear to be sound, as it has been
nowhere laid down that an element
of fraud is necessary to constitute
an offence under the latter part of
Section 182 I.P.C.

4. I submit the records in the
case as per list enclosed.

I have the honour to be
Sir

Your most obedient servant

Mundack

for agt. Magt.

Judicial Department.

From
The District Magistrate of
South Arcot.

To
The Chief Secretary
to Government

Madras.

Dated 22nd April 1895.
Despatched 26th
Received 28th
Rep 29th

No. 761

ENCLOSURE

Subject.

Submitting for orders
records in C.C. No. 59 of
1895 on the file of the
stationary Sub Magistrate
behindambaram.

* which puts the case very
clearly.

T. this as the H.A.M. points
out does not bear on the
matter in issue.

For orders

as to whether an appeal
should be preferred in this
case. The facts of the case are
set forth in the Head Arrest.
Magistrate's letter forming an
enclosure to the current. The
decisions of the High Court as to
the reading & application of
Sec 182 of the I.P.C. are some-
what conflicting - vide.

I.D.R. XIV Cal 314. (Petheram C.J.
+ Barendse J.)
" IV Mad 241 (Laner &
Mathurani J.)
" XIII Bom 506. (Jardine & Cuddeback)

Metropolitan Magistrate acquitted
the accused relying on the decisions
of the Calcutta & Madras High
Courts supra to the above. The H.A.
Arrest Magistrate & the D. Magistrate
on the other hand considered
that the local Magistrate's judg-
ment had been based on a
misapprehension of the law and
recommended that an appeal
to the High Court, citing the
Bombay ruling quoted above
in support of their recommend-
ation.

2. It is the doubts entertained
J.T.O.

as to the reading of Sec 182
will probably be set at
rest by the amended section
contained in Act III of 1895 (which)
Mr. Speaking briefly, the Sub-
Judge's judgment is in accord with the
Calcutta ruling - which has been
discussed at length in the Bombay
Decision - in such a manner as to
leave no doubt that the Calcutta
judges were wrong. - The Madras
Ruling does not bear directly on
the point - it is submitted that
an appeal is desirable to set the
matter at rest in this matter.

D
J. S. S.
4/5/95

Please put up statement of
objects & reasons & other papers
which led to the new section in III
of 1895. Apparently the ^{only} object of the
new section is to prevent stupid people
making mistakes - Yes, why bother about
appealing to get a section which has been
repeatedly properly interpreted?

MS

6/5/95

Since writing above I have found Pat. Vol.
with table of objects & reasons - but that tells
nothing.

The Pat. Vol., by the way, is the most extraordinary
pamphlet - compiled on no system whatever,
so that it must be more like if anyone ever
finds what accounts therein, without going right
through it.

At.

2/5/95

Pat. Vol. 2606

Appeal against acquittal

(For orders)

Note for H. P.

Reference to H. P.'s remarks on
the note for order on (No 2000) 95

The papers relating to the
revision of Section 182, S.P.C.,
are subd. as directed.

+ a copy of the Bill will be
found under cover of 5.08.10
April 1894. No 867

2. The Bill which has since
become Act III of 1895 was
introduced into the Viceregal
Legislative Council in March 1894.
When moving for leave to
introduce it The Hon. Member
in charge (Sir Alexander Miller)
made the following re-

marks as to the necessity
of amending Sec 182, S.P.C. -
"The first section proposes to"
"alter section 182 of the Code in"
"respect of false information"
"given to public servants. It"
"arises out of a case in which,"

P.T.D.

information having been
given by a man to the police
that he had been robbed at
a certain village, the police
went down and made en-
quiries and gave a great
deal of trouble and annoy-
ance to the people. It turned
out that the information
was absolutely false, but
on prosecution of the inform-
ant under section 182 the
High Court of Calcutta ruled
that inasmuch as it was
not intended, or could not
be shown that it was in-
tended, to injure and annoy
any particular persons,
the case did not fall within
the section in question.
The object of the section is
to ^{amend} amend that, and to say
that if such information
is given the person giving
it should be punished whether
any particular person
was aimed at or not.

x J.L.R. 19 Cal 380

3. In its letter of 9. June 94, No.
1408, this Court expressed its
approval of the proposed
amendment.

4. The Select Committee on the
Bill was of opinion that
the object of the amendment
could be ^{attained} sufficiently met
by a slight rearrangement
of the words of the section and
accordingly proposed certain
alterations. The Council accept-
ed these alterations with
the result that the section
has been amended as it
now stands in Art. III of
1895. The nature of ~~these~~
the changes proposed by the
Committee will be ex-
plained in paras
1 & 2 of the speech of the Hon.
Sir Alexander Miller ~~Baron~~
~~Baron~~ (a copy of which
is attached to this note).
~~It is to be noted that the~~
~~amendment of the section~~
~~is being made~~

It is surmise is that correct, having regard to the fact that the new section has inserted partly to prevent magistrates from making the mistake of the Calcutta High Court, perhaps it will suffice to say.

The Govt. considers an appeal to be inadvisable in view of the fact that the Sub-magistrate follows a ruling of the Calcutta High Court. Section 182 of the S.P.C. has ^{however} been amended by Act. III of 1895 section 1 in such a manner as to render the interpretation put upon the old section altogether inapplicable to the new section.

$\frac{2}{25-5-95}$

There seems no doubt that an appeal was preferred the decision against which took place before the passing of Act III of 1895 would be set aside.

The case was however a trivial one for the reason no doubt was heightened when he found that his wife had hanged herself & that he about it.

It might be ~~some~~ perhaps said.

Act III of 1895 which was passed subsequently to the decision of the Sub-magistrate has rendered mistakes as to the meaning of Section 182 of the S.P.C. impossible for the future.

2. ~~The case~~ was a comparatively trivial one and the Govt. considers that under the circumstances it is unnecessary to ~~make~~ an appeal. ²⁰⁻¹⁰⁻⁹⁵

d/ 10th June 1895 N^o. 1219

BD
4/6/95

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189

READ AGAIN G.O., No.
189

DATED

CURRENT No.

ENCLOSURES TO O. No.

ORDER OF GOVERNMENT

.. .. A A A A A A A

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

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