

(1895) 02 MAD CK 0010

Madras High Court

Case No: None

Queen-Empress

APPELLANT

Vs

Subbaraya Pillai

RESPONDENT

Date of Decision: Feb. 27, 1895

Acts Referred:

- Criminal Procedure Code, 1898 (CrPC) - Section 195, 407

Citation: (1895) ILR (Mad) 487

Hon'ble Judges: Arthur J.H. Collins, C.J; Parker, J

Bench: Division Bench

Judgement

1. Section 195, Criminal Procedure Code, does not make any particular form of application for sanction necessary, nor does it enact that

application shall be made by any particular person. The section merely provides that no Court shall take cognizance of certain offences without a sanction.

2. In the present case the sanction might have been given by the Second-class Magistrate or by some other Court to which his Court is

subordinate, and for the purpose of Section 195 that other Court is defined to be the Court to which appeals from the Second-class Magistrate

ordinarily lie.

3. u/s 407, Criminal Procedure Code, an appeal lies to the District Magistrate, but, if the District Magistrate has directed that all appeals from

Second and Third-class Magistrates in the Kallakurichi taluk shall be heard by the Deputy Magistrate--and we understand this to be the case--it

follows that all appeals from their decisions shall be presented to the Deputy Magistrate, and the Deputy Magistrate's Court is the Court to which

the appeals ordinarily lie. Had the sanction been granted by the Second-class Magistrate the appeal would, in the ordinary course of things, have

been presented to the Deputy Magistrate as the Magistrate having jurisdiction to entertain the appeal. For this reason we consider that the view of

the Sessions Judge was correct.

4. We may point out that the order of the District Magistrate was irregular on another ground. His order directs that the accused be prosecuted

before the Head Assistant Magistrate. No such order could be passed u/s 195 which must be confined to a grant of sanction, as the District

Magistrate had no jurisdiction to act u/s 476, since the alleged offence was not brought to his notice in the course of a judicial proceeding. We

must, therefore, decline to interfere and dismiss this petition.

5. Ordered accordingly.