

REG. *v.* NAVALMAL VALAD UMEDMAL.*Ind. Pen. Code, Sec. 211—False charge.*

Where a person is charged, under Sec. 211 of the Penal Code, with having, with intent to injure, falsely charged another with an offence, knowing that there is no just and lawful ground for the same, the party accused should be allowed to show the information on which he acted; and the Judge ought not only to be satisfied that the facts alleged as the ground for making the charge, are in themselves untrue and insufficient, but also that they were known to be such to the accused when the charge was made by him.

1866.  
June 20.  
Crim. Appeal.

THE prisoner, on the 27th of March 1866, was convicted by S. H. Phillpotts, Assistant Session Judge of Ahmednagar, of having, with intent to cause injury to one Viloráv Parbatráv Pátíl, charged him with an offence punishable with death, namely murder, well knowing that there was no just or lawful ground for such a charge; and was sentenced to suffer rigorous imprisonment for one year.

Against this conviction and sentence the prisoner petitioned the High Court, stating the facts of the case as follows:—His father, who was old and infirm, was found dead in the garden of the Police Pátíl of Párner on the 28th of February; and as he did not then suspect any person of having caused his death, he petitioned the Pátíl to be allowed to burn the body. Permission was not granted; and, on the 2nd of March, the prisoner presented a petition to the Fouzdar, stating that he suspected the Pátíl of having killed his father, and that on examining the body a wound was found on the neck. The information, upon which the second petition was presented, was obtained by him subsequent to his first petition to burn the body; and two witnesses were called by him on his trial, who stated that they had seen the Pátíl assault the deceased. The verdict returned upon the inquest was, that “the deceased died of injuries received from a fall, in consequence of his having been pushed.”

The appeal was heard this day before COUCH, C. J., and  
NEWTON, J.

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*Reid and Dhirájlál Mathuráttás* for the prisoner.

COUCH, C. J.—The prisoner is charged with the offence of falsely charging a person with having committed an offence, knowing that there was no just or lawful ground for such charge. Whether there was a ground or not must depend on whether or not he was told what he says he was. It is possible that the witnesses Nos. 11 and 12 may not have seen what they told the prisoner they had seen ; yet, if they told him, he would have ground for taking proceedings against the Pátíl. The witnesses Nos. 11 and 12 are not persons likely to come forward and make a false charge against a man in authority like the Police Pátíl. The prisoner may have believed what they told him. The Assistant Judge says that he disbelieves the witnesses. He does not say whether he disbelieves them wholly, or whether he disbelieves that they gave the alleged information to the accused. The Judge says that the coincidence is a little too extraordinary : it would not be extraordinary if they had arranged to throw suspicion on the Pátíl. This circumstance and the demeanor of the witnesses led the lower court to treat them as perjured witnesses. There is no doubt that the lower court has the advantage of being able to form an opinion as to the credibility of witnesses from their demeanor, and the absence of that test is a disadvantage under which this court must labour ; but the weight to be attached to such an opinion must depend upon the experience of the Judge who tried the case. And in the present case we cannot satisfactorily come to the conclusion that the evidence adduced by the prisoner was to his knowledge untrue, when he put it forward ; or that he was not justified in asking for an inquiry regarding the cause of his father's death.

We think, therefore, that the prisoner was not rightly convicted.

*Conviction and sentence reversed.*