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SADA'SHIV  
A'NANT  
v.  
VITHAL  
A'NANT

Court as to order that the mortgagees represented by the special appellant receive their costs of the original suit, and in other respects affirm the Assistant Judge's decree. Costs of this appeal to be borne by special appellant. The substantial identity of the parties, with those who have conducted the litigation below, is not questioned in this Court.

*Decree amended.*

March 18.

[APPELLATE CRIMINAL JURISDICTION.]

*In re* BA'LA'JI SITA'RA'M.

*Sanction for prosecution—Alternative charge—The Code of Criminal Procedure, Sec. 470—Requisites of a proper sanction.*

When it is intended to charge a person with having made a false statement in the Court of a Magistrate or (alternatively) a false statement in the Court of a Subordinate Judge, there must be a proper sanction for a prosecution on each branch of the alternative.

A sanction for a prosecution under Sec. 470 of the Criminal Procedure Code must designate the Court where the false statement was alleged to have been made and the occasion on which it was committed. *made*

It is desirable, if not necessary, that in the sanction for prosecution the description of the offence intended to be prosecuted should be stated in general terms although details may be omitted.

**T**HIS was an application for the exercise of the Court's extraordinary jurisdiction.

The applicant, Báláji Sitárám, was a partner with Anáji Parshrám in a farm for the collection of tolls in certain villages in the Satara District. Disputes arising between them led to suits in the civil, and prosecutions in the criminal, courts, in which evidence given by one party was characterized by the other as false. Anáji Parshrám suffered five years' rigorous imprisonment for having made a false statement on one of these occasions; and he now, in his turn, seeks to prosecute his opponent, the present applicant Báláji Sitárám. With this view he attempted, without success, to obtain the necessary sanction from several Magistrates and courts before whom Báláji Sitárám was examined, and at

last succeeded in obtaining it from the District Magistrate of Satara in the following terms :—

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“ I hereby sanction a prosecution against Báláji Sitárám being instituted for having made varying statements on solemn affirmation before different courts at different times under Sec. 193 of the Indian Penal Code.”

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SITA'RAM.

Proceedings having been instituted against Báláji Sitárám upon the above order, he applied to the High Court to annul it.

The application was heard by WEST and NA'NA'BHAI HARIDA'S, JJ.

*Branson* (with him *Pándurang Bálíbhadrá*) for the petitioner.

*Shántarám Náráyan* for *Dhirajlál Mathurádás*, Government Pleader, in support of the sanction.

WEST, J., in delivering judgment, said :—The first point we have to consider is that which arises on the argument that the application to the District Magistrate to grant his sanction for the prosecution is in the nature of an appeal against the refusal of a Magistrate subordinate to him. It is not worded as an appeal; but still it may have the practical effect of one. Yet, supposing that the application has such an effect, we think that its reception was not a step going beyond what the law itself contemplates.

The next point relates to the extent of jurisdiction to grant such a sanction. When it is intended to charge a person with having made a false statement in the court of a Magistrate, or (alternatively) a false statement in the court of a Subordinate Judge, it is not sufficient that the sanction to prosecute him should be given by one of such courts or its superior. It is necessary that the sanction should be given by both of them or their superiors. There must in fact be a proper sanction for a prosecution on each branch of the alternative.

Then with regard to the nature and terms of the sanction, no doubt the language of Sec. 470 of the Criminal Procedure

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Code is very wide. The sanction, it prescribes, may be expressed in general terms, and need not name the accused person. These provisions are introduced to guard against failures of justice or embarrassments in its administration, which, under the corresponding provision of the old Code, sometimes occurred.

But we do not think that the new enactment is intended to provide for a sanction expressed with so little definiteness as equally to justify the prosecution of *any* person for *any* offence and in any court whatever. The sanction given must refer to the court in which the false statement is alleged to have been given, and it must also refer to the occasion on which it was given. Both must be properly designated in order that the trying Court may inform itself as to the investigation or trial upon which it is really authorized to enter. And generally also, we think that it is desirable, for the ends of justice, if not necessary, to state the offence intended to be charged in general terms, though details need not be given.

We, therefore, annul the sanction in the present case on the ground that neither the courts in which the false statements were alleged to have been made by the accused nor the occasions on which they were made are designated. At the same time, we do not say that it will not be quite competent to the District Magistrate, after reading these observations, to grant, as to offences apparently committed in courts subordinate to his own, a fresh sanction free from the defects and supplying the omissions above noticed. The expediency of granting the sanction rests in his own discretion.

*Sanction annulled.*