Manohar Lal vs Vinesh Anand & Ors on 9 April, 2001

Equivalent citations: AIR 2001 SUPREME COURT 1820, 2001 AIR SCW 1590, 2001 ALL. L. J. 921, 2001 CLC 1036 (SC), 2001 (5) SRJ 210, 2001 (1) ALL CJ 672, 2001 (2) ORISSALR 198, 2001 (2) LRI 538, 2001 (5) SCC 407, 2001 CALCRILR 448, (2001) 4 JT 573 (SC), 2001 CORLA(BL SUPP) 225 SC, 2001 (2) COM LJ 207 SC, (2001) 2 CGLJ 349, (2001) 2 COMLJ 207, (2001) 2 ARBILR 160, (2001) 2 ALLCRIR 1393, (2001) 3 MAHLR 405, (2001) 2 CHANDCRIC 157, (2001) 43 ALLCRIC 534, (2001) 2 RAJ LW 220, (2001) 3 SCALE 270, (2001) 2 BLJ 678, (2001) 2 CRIMES 202, (2001) 2 ALLCRILR 279, (2001) 2 EASTCRIC 275, (2001) 2 RECCRIR 475, (2001) 2 CIVLJ 880, (2001) 4 SCJ 478, (2001) 3 ALL WC 1712, (2001) 21 OCR 198, 2001 ALLMR(CRI) 1226, (2001) 3 SUPREME 279, 2001 SCC (CRI) 1322, (2001) 1 UC 726

Bench: A.P. Misra, Ummesh C. Banerjee

CASE NO.:
Appeal (civil) 466 of 2001

PETITIONER:
MANOHAR LAL

Vs.

RESPONDENT:
VINESH ANAND & ORS.

DATE OF JUDGMENT: 09/04/2001

BENCH:
A.P. Misra & Ummesh C. Banerjee

JUDGMENT:

L...I...T.....T.....T.....T.....T.....T.....T..J BANERJEE,J.

Leave granted.

Since the decision in Thawardass case [Thawardas Pherumal & Anr. v. Union of India: AIR 1955 SC 468], the issue of identifying the Arbitrator, as a court, did come up for consideration before this

Court on more occasions than one. Thwaradas (supra) negatived it with a positive finding that the Arbitrator is not a Court within the meaning of the Code of Civil Procedure. Since then there has however, been sea change of events: the repeal of the earlier statute of Arbitration (Arbitration Act, 1940) and introduction of the new Arbitration Act, 1996 (Arbitration and Conciliation Act, 1996) in the statute book has brought about a major change in the sphere of Arbitration. Based on uncitral model of law on International Commercial Arbitration and Conciliation Rules, the Act is stated to be best suited and to sub-serve the Indian conditions having regard to the economic conditions and the effect of globalisation of trade. Incidentally, the Statements of Objects and Reasons of the Arbitration and Conciliation Act records it to be an act to consolidate and amend the law relating to domestic arbitration, international commercial arbitration and enforcement of foreign arbitral awards as also to define the law relating to conciliation and for matters connected therewith or incidental thereto. While the earlier enactment of 1940 was to be the most expeditious methodology of adjudication and disposal of disputes through arbitration but practicability of the situation lately produced a rather dismal picture and proved contrary to the normal belief and expectation that arbitration would be an otherwise expeditious method to do so. The uncitral model on the basis of which this Act of 1996 was engrafted in the statute book, in no uncertain terms recognises party autonomy philosophy and minimum interference from the Courts. In England also, similar such situation was the felt-need and resultantly in 1996, a similar enactment came into force but neither of the legislations however can be attributed to be an exact copy of the uncitral model though undoubtedly based thereon.

Having given a brief introduction to the recent legislation and adverting to the matter in issue presently, it would be worth noting that the issue involved though short but interesting enough to involve a useful debate on the same Debate, of course, we will avoid, but discussions we will indulge so that the law remains settled once for all on this issue as involved in the matter. The issue being applicability of the provisions of Section 340 Cr. P.Code in a proceeding before the arbitrator undoubtedly an ingenious effort but let us see as to how far the same succeeds.

Before however, embarking on a discussion on the subject issue, a look at the provisions would be best suited at this juncture: The relevant provisions being Sections 340 and 195 sub-section (1) (b) and sub-Section (3) of the Code of Criminal Procedure. The provisions read thus: 340:

> Procedure in cases mentioned in Section 195 -
>
> (1) When, upon an application made to it in this behalf or otherwise, any Court is of opinion that it is expedient in the interests of justice that an inquiry should be made into any offence referred to in clause (b) of sub-section (1) of Section 195, which appears to have been committed in or in relation to a proceeding in that Court or, as the case may be, in respect of a document produced or given in evidence in a proceeding in that Court, such Court may, after such preliminary inquiry, if any, as it thinks necessary,-
>
> (a) record a finding to that effect;

(b) make a complaint thereof in writing;

(c) send it to a Magistrate of the first class having jurisdiction;

(d) take sufficient security for the appearance of the accused before such Magistrate, or if the alleged offence is non-bailable and the Court thinks it necessary so to do, send the accused in custody to such Magistrate; and

(e) bind over any person to appear and give evidence before such Magistrate.

(Corresponding Law: S.476 (1) of Act V of 1898) (2) The power conferred on a Court by sub-section (1) in respect of an offence may, in any case where that Court has neither made a complaint under sub-section (1) in respect of that offence nor rejected an application for the making of such complaint, be exercised by the Court to which such former Court is subordinate within the meaning of sub-section (4) of Section 195.

(Corresponding Law : S.476A of Act V of 1898) (3) A complaint made under this section shall be signed,-

(a) where the Court making the complaint is a High Court, by such officer of the Court as the Court may appoint;

(b) in any other case, by the presiding Officer of the Court, (Correspondent Law: S.476 (1)Proviso of Act V of 1898)

4) In this section, Court has the same meaning as in Section 195.

Section 195: Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence (1) No court shall take cognizance-

(b) (i) of any offence punishable under any of the following sections of the Indian Penal Code (45 of 1860), namely, Sections 193 to 196 (both inclusive), 199, 200, 205 to 211 (both inclusive) and 228, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court, or

(ii) of any offence described in Section 463, or punishable under Section 471, Section 475 or Section 476 of the said Code, when such offence is alleged to have been committed in respect of a document produced or given in evidence in a proceeding in any court, or

(iii) of any criminal conspiracy to commit, or attempt to commit, or the abetment of, any offence specified in sub-clause (i) or sub-clause (ii), except on the complaint in writing of that Court, or of some other Court to which that Court is subordinate.

Section 195 (3):

> (3) In clause (b) of sub-section (1), the term Court means a Civil, Revenue or Criminal Court, and includes a tribunal constituted by or under a Central, Provincial or State Act, if declared by that Act to be a Court for the purposes of this section.

Before adverting to the matter in issue and the rival contentions advanced one redeeming feature ought to be@@ JJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJ noticed here pertain to Criminal jurisprudence: To pursue@@ JJJJJJJJJJJJJJJJJJJJJJJ an offender in the event of commission of an offence, is to sub-serve a social need Society cannot afford to have a criminal escape his liability, since that would bring about a state of social pollution, which is neither desired nor warranted and this is irrespective of the concept of locus the doctrine of locus-standi is totally foreign to criminal jurisprudence. This observation of ours however obtains support from the decision of this Court in AR Antulay v. Ramdas Sriniwas Nayak & Anr. : 1984 (2) SCC 500.

Another redeeming feature is the inclusion of an explanatory provision by way of sub-section (3): The body of sub-section (1)(b) refers to the expression Court and the same stands explained in sub-section (3) : Without a reading of sub-section (3) Court may be interpreted in a narrow context, but with the inclusion of sub-section (3) widest possible connotation is to be made available provided however, the statute declares it to be so!! The language if declared by that Act seems to be very significant:

> A plain look thus at the provisions above depict that inclusion of sub- section 3 under Section 195 cannot but be taken to be an explanatory provision. The body of Section 195 (1)(b) refers to the expression Court and the same stands thus explained in sub-section 3. The restriction imposed is easily ascertainable by reason of the inclusion of the words if declared by that Act to be a court for the purposes of this Section (Emphasis supplied) the user of the words seems to be very significant. One of the golden canons of interpretation is that the Legislature always avoid surplusage and attributes a definite meaning to each of the words mentioned in the statute. By the very inclusion of sub-section 3 and the language as noticed hereinbefore in this paragraph, the intent of the Legislature cannot thus be far to seek it is connotative of a definite meaning.

Mr. Yogeshwar Prasad, the learned Senior Advocate took some pains to take us through different provisions of the Act and contended that the whole tenor of legislation will have to be considered in a much broader perspective so as to assess the intent of the legislature and citations on the earlier repealed act ought not to be looked into or be considered since the answer for any inquiry ought to be kept within the parameters of the new law and when interpreting or analysing the philosophy of party autonomy noticed above should and ought to be the basis and de hors the jurisprudential effect of the legal decisions under the old Act.

The main thrust of the submission in support of the Appeal however, rests on a simple proposition that Court means and implies authority to decide controversy between the parties authoritatively

and the decision being binding amongst the parties. Strong reliance was placed on the decision of this Court in the case of Brajnandan Sinha v. Jyoti Narain (AIR 1956 SC 66) wherein this Court observed that the pronouncement of a definitive judgment is thus considered the essential sine qua non of a court and unless and until a binding and authoritative judgment can be produced by a person or body of persons, it cannot be predicated that he or they constitute a Court. It is on the basis of the observations as above that the learned Senior Advocate in support of the Appeal contended that mere look at the new enactment would reveal the total exclusion of courts in the matter of interference with the arbitral awards there cannot be any manner of dispute that awards are not to be interfered and the same, as per the provisions of the statute has the status of a decree of a court and thus executable forthwith but does that mean and imply total ouster of jurisdiction of courts or one need not approach the court at all in a arbitral proceeding, the answer may not be in the affirmative by reason of different statutory provisions with which we presently deal though not in detail since the issue is little different from the usual discussion on a question as to whether Arbitrator is a Court or not? But before so doing another decision of this Court on which strong reliance was placed ought to be noticed. This Court in Virindar Kumar v. State of Punjab (AIR 1956 SC 153) in paragraph 5 of the Report observed:

> 5. The first question that arises for our decision is whether the order of the District Magistrate passed on 17.9.1952 as returning officer is open to appeal. The statutory provisions bearing on this point are Sections 195, 476 and 476-B of the Code of Criminal Procedure. Section 195(1) (a) provides that no court shall take cognizance of any offence punishable under Sections 172 to 188 of the Indian Penal Code except on the complaint in writing of the public officer concerned or of his superior.

Section 195(1)(b) enacts that no Court shall take cognizance of the offences mentioned therein, where such offence is committed in, or in relation to, any proceedings in any court except on the complaint in writing of such Court or a Court to which it is subordinate. The offence under Section 193 is one of those mentioned in Section 195 (1)(b). Section 476 prescribes the procedure to be followed where a Court is moved to lay a complaint and that applies only to offences mentioned in Sections 195(1)(b) and 195(1)(c) and not to those mentioned in Section 195 (1)(a).

Section 476-B provides for an appeal from an order passed under Section 476 to the appropriate Court. The result then is that if the complaint relates to offences mentioned in Sections 195 (1)(b)and 195 (1)(c), an appeal would be competent, but not if it relates to offences mentioned in Section 195(1)(a). Now, the order of the Magistrate dated 17.9.1952 directs that the appellant should be prosecuted for offences under Sections 181,182 and 193. There is no dispute that the order in so far as it relates to offences under Sections 181 and 182 is not appealable, as they fall directly under Section 195(1)(a).

The controversy is only as regards the charge under Section 193. Section 193 makes it an offence to give false evidence whether it be in a judicial proceeding or not, and it likewise makes it an offence to fabricate false evidence for use in a judicial proceeding or elsewhere. If the offence is not committed in a judicial proceeding, then it will fall outside section 195 (1)(b), which applies only when it is committed in or in relation to a proceeding in Court, and there is in consequence no bar to

a complaint being made in respect thereof unaffected by the restrictions contained in Section 195(1)(b).

But if the offence under Section 193 is committed in or in relation to a proceeding in Court, then it will fall under Section 195(1)(b), and the order directing prosecution under Section 476 will be appealable under Section 476-B. The point for decision therefore is whether the returning officer in deciding on the validity of a nomination paper under Section 36 of the Act can be held to act as a Court. The question thus raised does not appear to be covered by authority, and has to be decided on the true character of the functions of the returning officer and the nature and the extent of his powers.

In our view, however, the observations made in Virindar Kumars case (supra) does not, in fact, assist us in any way in the present context. Two decisions of Calcutta High Court have also been relied upon. The first being the case of Sailaja Kanta Mitra and others v. State of West Bengal (AIR 1971 Calcutta 137) and the second being the case of H.C. Ganti v. F.L. Harcourt (AIR 1931 Calcutta 436).

Turning attention on to the second case of H.C. Ganti (supra), Buckland, J. while deciding the matter observed that where a person is alleged to have given false evidence before Arbitrator, an application under Section 476, in the Court in which the suit was initiated is necessary. But the question whether a preliminary inquiry is necessary or not will depend upon the facts and circumstances of each case. Where the application is supported not by oral evidence, but only by documents, no further preliminary inquiry is necessary beyond that which the Court makes on the materials before it.

In such cases it is not necessary that a notice should be given to the person against whom the order is sought on an application under Section 476.

The decision in our view, however, does not render much of an assistance in regard to the issue. The other decision of the Calcutta High Court in Sailaja Kanta (supra), a Division Bench of the High Court in paragraph 17 of the judgment observed as below:

> Thus the Arbitrator decides the lis before it, having the powers like a Court, following the procedure as a Court has to follow in the exercise of its ordinary original civil jurisdiction under the Code of Civil Procedure, 1908. The award of the Arbitrator, so far as the parties to the award are concerned, if not appealed against, shall be final. In the appeal by either party to the award against the Arbitrators award direct to the High Court a time limit has been prescribed for preferring such appeal which may also be admitted beyond the prescribed period if the High Court is satisfied about the grounds of the delay. An appeal to the High Court against the award shall not lie only where the amount of compensation awarded does not exceed Rs.5,000 in lump or 250 per mensem. The dispute between the claimant claiming the compensation and the State resisting such claim is certainly a civil dispute and the lis between the parties is of a civil nature. The arbitration proceedings before the Arbitrator,

originating on a reference at the instance of the claimant by the Collector before the Arbitrator under the D.I Act and the Rules mentioned above in relation to such a civil dispute are proceedings which refer to an original matter in the nature of a suit. The Arbitrator in such arbitration proceedings which refer to an original matter in the nature of a suit shall have the like powers and follow the like procedure as the Court has and follows in the exercise of its ordinary original civil jurisdiction under the Code of Civil Procedure, 1908. So, the Arbitrator under the Defence of India Act and the Rules discussed above in the proceedings of an arbitration before it, is a Court of civil jurisdiction and it follows the procedure that a Court of civil jurisdiction follows in the exercise of its ordinary original civil jurisdiction under the Code of Civil Procedure, 1908. The Arbitrator, under the Defence of India Act, 1939 and the Rules regarding arbitration for settlement of compensation payable under Section 19 of the Defence of India Act, 1939 so far as Bengal, now West Bengal, is concerned, is, therefore, a Court of civil jurisdiction, and follows the procedure in arbitration proceedings before it, as provided for by the Code of Civil Procedure, 1908 in regard to suits since the Arbitrator under Rule 6 quoted above shall have the powers like the Court and shall follow the like procedure as the Court follows in the exercise of its ordinary original civil jurisdiction under the Code of Civil Procedure, 1908. So, the combined effect of Section 141 of the Code of Civil Procedure read with section 19, sub-section (1), clauses (b),(e),(f),(g), sub-sections (2) and (3) of the Defence of India Act, 1939 and the Rules regarding Arbitration for settlement of compensation payable under Section 19 of the Defence of India Act, 1939 framed by the Governor of Bengal as already discussed, is to make an Arbitrator under the D.I. Act, 1939 so far as Bengal now West Bengal is concerned, a Court of civil jurisdiction that shall have the like powers and shall follow the like procedure as the Court has and follows in the exercise of its ordinary original civil jurisdiction under the Code of Civil Procedure, 1908.

The decision apparently lend some credence to the submission of the appellant but by reason of the factual situation is clearly distinguishable of facts but as regards the provisions of law, we will deal with little later in this judgment.

Mr. Alok Singh however appearing for the Respondent drew our attention to Section 27 of the Act of 1996 which provides as follows:

(2 7) Court assistance in taking evidence- (1) The arbitral tribunal, or a party with the approval of the arbitral tribunal may apply to the Court for assistance in taking evidence.

(2) The application shall specify-

(a) The names and addresses of the parties and the arbitrators;

(b) the general nature of the claim and the relief sought;

(c) the evidence to be obtained, in particular,-

(i) the name and address of any person to be heard as witness or expert witness and a statement of the subject matter of the testimony required;

(ii) the description of any document to be produced or property to be inspected.

(3) The Court may, within its competence and according to its rules on taking evidence, execute the request by ordering that the evidence be provided directly to the arbitral tribunal.

(4) The court may, while making an order under sub-

section (3), issue the same processes to witnesses as it may issue in suits tried before it.

(5) Persons failing to attend in accordance with such process, or making any other default, or refusing to give their evidence, or guilty of any contempt to the arbitral tribunal during the conduct of arbitral proceedings, shall be subject to the like disadvantages, penalties and punishments by order of the court on the representation of the arbitral tribunal as they would incur for the like offences in suits tried before the Court.

(6) In this section the expression Processes includes summonses and commissions for the examination of witnesses and summonses to produce documents.

Relying on the aforesaid provision Mr. Singh very strongly contended that it is not otherwise right to contend that the Arbitral Tribunal is supreme in its own field. The Section itself provides for assistance in taking evidence. The sub-sections 3, 4 and 5 have been strongly relied upon so as to conclude that even though the general trend of legislation is party autonomy but that does not mean and imply total exclusion of jurisdiction of the court or the conferment of such a power of court to the Arbitrator. In any event Mr. Singh contended that the issue in the instant Appeal is rather restrictive and the general principles of Arbitrator being identified as a Court need not be gone into by reason of this issue under consideration. The clear language of Section 195 (3) of the Code of Cr. Procedure unmistakably depict the restrictive intent of the Legislature and if the intent was otherwise to include Arbitral Tribunal within the fold of Section 195 (3) of the Code, that is to say, if the Legislature wanted to confer such a status there was no difficulty as such in incorporating thereunder a provision as is contained in a Debt Recovery Act (vide Section 22): Income Tax Act (vide Section 136) : Motor Vehicles Act (vide Section 169 (2):

Administrative Tribunal Act (vide Section 22 (3): Consumer Protection Act: M.R.T.P. Act: and Companies Act etc. etc. since these statutes have definitely included and declared the Tribunal being ascribed to be a court within the meaning of Section 195 of the Criminal Procedure Code. The inclusion of explanatory provision by way of sub-section (3) makes the situation abundantly clear and we need not dilate thereon.

Mr. Singh while relying strongly on the decision of this Court in Dr. Baliram Waman Hiray v. Justice B. Lentin and Others (1988 (4) SCC 419) contended that the decision in Balirams case has been holding the field without any contra note being sounded subsequently. But before embarking to assess the situation, let us have a look at the decision for its proper appreciation. This Court in paragraph 24-25 of the Report, observed as below:

> 24. The crucial question that falls to be determined in this appeal is whether sub-section (3) of Section 195 has brought about a change in the law and therefore the majority decision in Lalji Haridas case (1964) 6 SCR 700 no longer holds the field as submitted by Dr. Chitale, appearing on behalf of the appellant, or was merely declaratory of the law as declared by the court in Lalji Haridas case, as argued by the learned Advocate-General, and therefore the decision in Lalji Haridas case is still good law. It cannot be doubted that sub- sections (3) of Section 195 of the Code has been enacted by Parliament to implement the recommendations of the 41st report of the Law Commission which brought about the unsatisfactory state of law due to conflict of opinion between different High Courts as to the meaning of the word Court in Section 195 (1)(b) read in the context of Section 195 (2) of the earlier Code. The interpretative exercise undertaken by the courts over the years as to the precise meaning of the term Court as defined in Section 195(1)(b) of the old Code prior to the introduction of sub- section (3) of section 195 of the present Code, reveals an endless oscillation between two views each verging on a fringe of obscurity and vagueness.

As echoed by Lord Macmillan in his Law and Other Things at p. 48:

> In almost every case except the very plainest, it would be possible to decide the issue either way with reasonable legal justification and that in such cases, ethical considerations operate and ought to operate.

> 25. In that uncertain state of law, the Law Commission observed in paragraph 15.99 of its Report that it felt that in any concrete case this question is bound to create problem of interpretation and accordingly suggested a change in law for the purposes of Section 195 of the Code. It felt that the term Court for the purposes of clauses (b) and

> (c) should mean a Civil, Revenue or a Criminal Court, properly so called, but where a tribunal created by an Act has all or practically all the attributes of a court, it might be regarded as a court only if declared by the Act to be a court for the purposes of Section 195. Indibutably, the introduction of the inclusive clause in the definition of Court in sub-section (3) of Section 195 has brought about a change in the law. No rule is more firmly established than the principles enunciated in Heydon case [(1584) 3 Co Rep 7a: 76 ER 637] which have been continually cited with approval not only by the English courts but also by the Privy Council as well as this Court. The principles laid down in Heydon case have been enunciated in Craies on Statute Law, 6th edn. at p.96 as follows:

> That for the sure and true interpretation of all statutes in general (be they penal or beneficial, restrictive or enlarging of the common law), four things are to be discerned and considered: (1) What was the common law before the making of the Act (2) What was the mischief and defect for which the common law did not provide (3) what remedy the Parliament hath resolved and appointed to cure the disease of the commonwealth (4) The true reason of the remedy. And then the office of all the judges is always to make such construction as shall suppress the mischief and advance the remedy, and to suppress subtle inventions and evasions for the continuance of the mischief and pro privato commodo, and to add force and life to the cure and remedy according to the true intent of the makers of the Act pro bono publico.
>
> These rules are still in full force and effect, with the addition that regard must now be had not only to the existing law but also to prior legislation and to the judicial interpretation thereof. The court applied the rule in Heydon case in Bengal Immunity Company Limited v. State of Bihar [AIR 1955 SC 661] in the construction of Article 286 of the Constitution. After referring to the state of law prevailing in the then Provinces prior to the Constitution as also to the chaos and confusion that was brought about in interstate trade and commerce by indiscriminate exercising of taxing powers by the different provincial legislatures founded on the theory of territorial nexus, SR Das, Actg. C.J. speaking for himself and Vivian Bose and Jafer Imam, JJ. proceeded to say: (SCR p.635) It was to cure this mischief of multiple taxation and to preserve the free flow of interstate trade or commerce in the Union of India regarded as one economic unit without any provincial barrier that the Constitution-makers adopted Article 286 of the Constitution.

An illustration of the application of the rule is also furnished in the construction of Section 2(d) of the Prize Competitions Act, 1955. In RMD Chamarbaugwalla v. Union of India [1957 SCR 930] Venkatarama Ayyar, J. speaking for the court after referring to the previous state of the law, to the mischief that continued under that law and to the resolutions passed by different state legislatures under Article 252 (1) of the Constitution authorising Parliament to pass the Act, stated: (SCR p. 939) Having regard to the history of the legislation, the declared object thereof and the wording of the statute, we are of opinion that the competitions which are sought to be controlled and regulated by the Act are only those competitions in which success does not depend to any substantial degree on skill. Balirams decision (supra) has taken into consideration the entire judicial precedent available till the date of the judgment and came to a conclusion upon reliance of the Madhya Pradesh High Court judgment in Puhupram v. State of Madhya Pradesh (1968 MPLJ

629) that the same lays down the correct law. This Court observed:

> 36. The least that is required of a court is the capacity to deliver a definitive judgment, and merely because the procedure adopted by it is of a legal character and it has power to administer an oath will not impart to it the status of a court. That being so, it must be held that a Commission of Inquiry appointed by the appropriate

> government under Section 3(1) of the Commissions of Inquiry Act is not a court for the purposes of Section 195 of the Code.

Needless to record here that on a proper appreciation of judgment in Baliram (supra), there cannot be two opinions as the scope and effect of Section 195 (3) of Code and we thus record our concurrence with the view expressed by this Court in Baliram: The law thus laid down by the Bench decision of the Calcutta High Court in Sailaja Kanta (supra) cannot be said to be good law and thus stands over-ruled even on the basis of the state of law under the 1940 Act (being a repealed statute presently).

On the wake of the aforesaid, we are unable to record our concurrence with the submissions made in support of the appeal that the Arbitrator can be termed to be a Court within the meaning of Section 195 of the Cr. Procedure Code, as such question of applicability of Section 340 Cr.P.Code in a proceeding before the Arbitrator does not and cannot arise. The issue thus is answered in the negative. The Appeal therefore, fails and is dismissed. No order as to costs.