

Madras High Court

In Re: Vanu Ramachandriah vs Unknown on 4 May, 1927

Equivalent citations: (1927) 53 MLJ 723

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ORDER Wallace, J.

1. The petitioner has been convicted of an offence under Section 161 of the Indian Penal Code read with Section 116. His contention is that on the facts found the offence has not been established.

2. The facts found are that on 15th November, 1925, he, a Municipal Councillor of the Wallajapet Municipal Council, did, in a letter written to the complainant, who was the manager of the office of the same Municipality, say to him, "The matter regarding the lock-up shed, Mr. Manicka Seshayya is keen about it. Will you 'just try that job for him? I now here take my full privelege to you to say that he makes an offer of rupees two hundred to you in case he gets it. I shall stand surety for it if you can interfere in the matter and have it settled. If you can assure me, he is prepared to deposit the amount". The giving of a contract for this lock-up shed lay with the Chairman and the Councillors. I have no doubt what this letter means. The petitioner informs the manager that if he uses his influence with the Chairman and Councillors to secure the contract for Manicka Seshayya, he will get Rs. 200 from Manicka Seshayya or, if not from him, then from himself, the petitioner. That is, in effect he says,, "I, at any rate, will see that you get Rs. 200 if you get the contract for Manicka Seshayya". That is equivalent to an offer of Rs. 200 if he gets the contract for him. I am not able to support the contention that this is a merely passing on of an offer by Manicka Seshayya himself. It is clearly an undertaking by the petitioner himself that he will, if necessary, pay this Rs. 200 when the contract is obtained. I am clear therefore that this is an offer by the petitioner of an illegal gratification to the complainant in his capacity as manager of the Municipal Office, to use the influence he possesses in such capacity over the Chairman and Councillors in order to procure this Municipal contract for Manicka Seshayya.

3. It is next contended that even so petitioner's conduct does not amount to an abetment of an offence under Section 161, first because even if complainant had accepted the bribe he would not have committed an offence under that section and therefore there cannot be any abetment of such an offence, secondly that petitioner's conduct did not amount to a real offer and thirdly that at the most his conduct amounted to a mere abetment of an attempt or an instigation of an abetment. He further raised the question whether the complainant is a public servant. That point however was never raised in the Courts below where it was not disputed that he was a public servant. Whether he is or is not is a question of fact and I am not prepared to let it be raised here for the first time and I take it that the complainant is a public servant.

4. The essence of the first contention is that the complainant was not asked to do an official act since officially he has nothing to do with such a contract, but Section 161 is not confined to cases in which the gratification is taken for doing an official act. The wording of the section is clumsy, but it does not appear to me to be so restricted. From that wording and omitting words which are. superflous for this argument it is an offence if a public servant accepts any gratification other than legal remuneration as a motive or reward for rendering or attempting to render any service to any one

with any public servant as such. Now here on the facts if the complainant, the manager of the Municipal Office and a public servant, had accepted the Rs. 200 as a reward for using his influence with the Chairman and the Councillors as such to get a contract for Manicka Seshayya, which contract was in the gift of the Chairman and Councillors as such, I have no doubt that he would be guilty under Section 161, whether or not the act which he did was an official act. Incidentally I can see no reason for supposing that what the Chairman and Councillors as a body do or can do officially they do not do as a public servant.

5. As to the second contention, it is not necessary that the gratification need actually be produced. I have already held that petitioner was obviously making a firm offer to pay the complainant Rs. 200 if Manicka Seshayya got the contract through his good services. As to the third contention, the petitioner offered the gratification and although the complainant did not accept it, petitioner would still be guilty under Section 116. See illustration (a) to that section. That illustration no doubt deals with an offer for a bribe to a public servant for showing favour in the exercise of his official functions. But the principle of the illustration obviously applies as much to the other purposes set out in Section 161 as to doing or forbearing to do any official act.

6. It is pleaded that the charge framed was obscure, but so far from that being the case, it seems to me to set out clearly the exact conduct contemplated in the latter part of Section 161 so as to bring the abetment by the petitioner under Section 116. The charge runs that 'You offered illegal gratification of Rs. 200 to Rajam Aiyar, manager, Municipal Office, Wallajapet, as a motive or reward for rendering a service to Manicka Seshayya with the Chairman and Councillors, to wit, to procure for Manicka Seshayya the contract of a lock-up shed". It has been quite clearly framed with an eye to that part of Section 161 which is applicable to the case.

7. Petitioner calls in aid a ruling of a Bench of the Bombay High Court reported in *Emperor v. Amir-ud-din* (1922) 24 Bom. LR 534, but there, as will be seen, there was no offer by the accused himself. He merely stated that some one else was willing to bribe. In the present case the petitioner himself made an offer in what he guaranteed the money if the favour was granted. The case in *Upendranath Chowdhury v. The King-Emperor* (1916) 21 CWN 552 is distinguishable on the ground that the money taken there was not for rendering service with any public servant as such. The case in *Venkiah, In re* (1924) 47 MLJ 662 has been relied upon. But there the facts again do not show that the kurnam took the money for rendering a service with any public servant as such and therefore the conviction could not stand unless it was proved that he took it for doing an official act which was held not proved on the facts. None of these cases therefore are of any assistance to the petitioner. I therefore do not see that any error of law has been committed by the Lower Courts and the conviction is proper and must stand.

8. I am asked to reduce the sentence, but having regard to the necessity for severely punishing attempts to foul the purity of official administration, I am not prepared to interfere. I therefore dismiss this petition.