

Nand's case (supra). For convenience sake, paragraphs 11 and 12 of the judgment in Sachidanand's case are set out hereinbelow:

.SP1

"The scope of the preliminary enquiry envisaged in Section 40(1) of the Code is to ascertain whether any offence affecting administration of justice has been committed in respect of a document produced in court or given in evidence in a proceeding in that Court. In other words, the offence should have been committed during the time when the document was in custodia legis.

It would be a strained thinking that any offence involving forgery of a document if committed far outside the precincts of the Court and long before its production in the Court, could also be treated as one affecting administration of justice merely because that document later reached the court records."

.SP2

During the course of hearing before this Court, however, learned senior counsel appearing for the State of Tamil Nadu contended that after the decision in Sachida Nand's case, this Court had an occasion to deal with a similar issue in M.S. Alhawati Vs. State of Haryana and Anr. (2000 (1) SCC 278) and expressed a different view as has been laid down in Sachida Nand's case.

Incidentally, it should be noticed here that the decision in Sachida Nand's case was not placed before the Court.

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for consideration and this Court in that case came to a conclusion as recorded in paragraphs 5 and 6 which for convenience sake are also set out hereinbelow:

.SP1

"The contention of the appellants is that if the offence alleged is with respect to a document which reached the Court then the aforesaid bar operates, no matter whether the offence was committed before or after its production in court. In other words, according to the appellants, the decisive event for attracting the bar is the production of the document in the Court.

A reading of the clause reveals two main postulates for operation of the bar mentioned there. First is, there must be allegation that an offence (it should be either an offence described in Section 463 or any other offence punishable under Sections 471, 475, 476 of the IPC) has been committed. Second is that such

offence should have been committed in respect of a document produced or given in evidence in a proceeding in any court. There is no dispute before us that if forgery has been committed while the document was in the custody of a court, then prosecution can be launched only with a complaint made by that Court. There is also no dispute that if forgery was committed with a document which has not been produced in a court then the prosecution would lie at the instance of any person. If so, will its production in a court make all the difference?"

.SP2

In view of the apparent consistency, we do feel that the matter requires to be placed for consideration before a larger bench and hence the matter to be placed before the learned Chief Justice for appropriate orders.

.SP1

(Meena Sarin)
AR Cum PS

(DD Jindal)
Assistant Registrar