

Muslim Shah Vs. the State

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Court : Guwahati

Decided On : Apr-30-1952

Judge : Thadani, C.J. and Deka, J.

Appellant : Muslim Shah

Respondent : The State

Judgement :

Thadani, C.J.

1. This is an application under Section 439, Criminal P.C. and Article 227 of the Constitution of India arising out of a case in which one Muslim Shah was ordered to be extended from the State of Assam by the First Class Magistrate of Sibsagar for a period of 3 years. On appeal, the period of his externment was reduced from 3 years to one year.

2. The learned Sessions Judge, U.A.D., while confirming the order of externment, stated in his judgment that the reduced period of one year was to commence from 15.8.50, i.e., the date of the judgment and order of the Trial Court. When the records of the case went before the Trial Court, it pointed out to the learned Sessions Judge that after its judgment on 15.8.50, the order of externment had been stayed, whereupon the learned Sessions Judge modified his order, dated 19.6.51, by which he had ordered the period of externment to commence from 15.8.50, and sent back the papers to the Trial Court to fix the commencement of

the externment period from such date as he thought proper. It is against this order that the applicant has come before us in revision.

3. It is plain that the learned Sessions Judge, after he had passed the order on 19.6.51 had no jurisdiction to vary his order in the manner in which he has done. We can, however, rectify the error. The proper order to pass, we think, is as follows: that the period of externment of the applicant will commence from the date of judgment of the learned Sessions Judge, i.e., 19.6.51, for one year. There appears to be some controversy as to whether the order of externment has been served on the applicant or not. With this aspect of the case we are not concerned. As we have said, the period of externment will begin from 19.6.51 and will last for one year.

4. Mr. Sen has not elected to address us on the merits of the case. The application is disposed of by this order.

5. The Rule is discharged with the above modification.

Deka J.

6. I agree.

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